

# EXHIBIT 4

**In the Matter Of:**

*HAVERKAMP v*

*LANETTE LINTHICUM*

*ERIC GUERRERO*

*July 20, 2023*

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE SOUTHERN DISTRICT OF TEXAS  
3 CORPUS CHRISTI DIVISION  
4 BOBBIE LEE HAVERKAMP A/K/A )  
DAVID ALLEN HAVERKAMP, )  
5 Plaintiff, )  
6 ) NO. 2:17-cv-00018  
7 vs. )  
8 )  
9 LANETTE LINTHICUM, ET AL., )  
Defendants. )  
10 \*\*\*\*\*  
11 ORAL DEPOSITION OF  
12 ERIC GUERRERO  
13 30(b)(6) WITNESS  
14 JULY 20, 2023  
15 VOLUME 1  
16 \*\*\*\*\*  
17 ORAL DEPOSITION OF ERIC GUERRERO, produced as a  
18 witness at the instance of the Plaintiff, and duly sworn,  
19 was taken in the above-styled and numbered cause on  
20 July 20, 2023, from 2:03 p.m. to 5:55 p.m., via Zoom  
21 videoconference before CHRYSTAL H. McDANIEL, Certified  
22 Shorthand Reporter in and for the State of Texas, reported  
23 by machine shorthand, pursuant to the Federal Rules of  
24 Civil Procedure and the provisions stated on the record or  
25 attached hereto.

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(Continued)  
2  
3  
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5 Bobbie Lee Haverkamp a/k/a David Allen Haverkamp  
6  
7 MONITOR:  
8 Drayton Everson - Lexitas  
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<p>1 STIPULATIONS</p> <p>2 The attorneys for all parties present stipulate and</p> <p>3 agree to the following items:</p> <p>4</p> <p>5 That the deposition of ERIC GUERRERO is being taken</p> <p>6 pursuant to Notice;</p> <p>7</p> <p>8 That the deposition is being taken pursuant to the</p> <p>9 Federal Rules of Civil Procedure;</p> <p>10</p> <p>11 That pursuant to FRCP Rule 30(e)(1), the signature of</p> <p>12 the deponent was requested by the deponent or a party</p> <p>13 before the completion of the deposition;</p> <p>14</p> <p>15 That the original transcript will be submitted</p> <p>16 electronically for signature to the witness' attorney, Mr.</p> <p>17 Michael Calb, and that the witness or the witness' attorney</p> <p>18 will return the signed jurat and errata sheets to Lexitas</p> <p>19 within 30 days of the date the electronic transcript is</p> <p>20 provided to the witness' attorney. If not returned, the</p> <p>21 witness may be deemed to have waived the right to make the</p> <p>22 changes, and an unsigned copy may be used as though signed.</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 testifying in a courtroom in front of a judge and a jury.</p> <p>2 Do you understand that?</p> <p>3 A Yes, sir.</p> <p>4 Q When I ask a question that you do not understand,</p> <p>5 please ask me to clarify the question; otherwise, I will</p> <p>6 assume you understood my question. Can we agree to that?</p> <p>7 A Agree.</p> <p>8 Q The court reporter needs us to communicate</p> <p>9 verbally. That means no nodding, shaking of the head,</p> <p>10 "huh-uhs" or "uh-huhs." Does that make sense?</p> <p>11 A Yes, sir.</p> <p>12 Q And I'll ask that you let me finish my question</p> <p>13 before you answer, and I'll try to let you finish your</p> <p>14 answer before I ask a question. Can we agree to that?</p> <p>15 A Yes.</p> <p>16 Q Have you ever been deposed before?</p> <p>17 A Yes.</p> <p>18 Q How many times?</p> <p>19 A Approximately four to five times.</p> <p>20 Q Okay. And what were the names of those cases in</p> <p>21 which you were deposed?</p> <p>22 A One was Leon Parker, which was last week. There</p> <p>23 was one that I was deposed on a little over a month ago.</p> <p>24 It was a case from the Estelle Unit. Can't remember the</p> <p>25 name of the -- of the inmate. It was over our disability</p>

<p style="text-align: right;">Page 9</p> <p>1 systems there that we have at the facility. His name does 2 not cross my mind at this time, but it was a little over a 3 month ago. And then I was deposed on a case many years 4 ago -- I want to say approximately six years ago -- on an 5 inmate who died out of the Bill Clements Unit in Amarillo. 6 Q Okay. Any other cases than those three? 7 A I believe there was one more. I just -- it's 8 been many, many years ago -- that I can't think of right 9 now. 10 Q And in all those instances, were you a 11 representative of TDCJ or were you a -- were you being 12 deposed in your personal capacity? 13 A As a representative of TDCJ. 14 Q What was the Leon Parker case where you were 15 deposed last week? 16 A It was over his request to wear dreadlocks. 17 Q An inmate's request to wear dreadlocks? 18 A Yes, sir. 19 Q And the case on the Estelle Unit where you were 20 deposed a month ago, what type of case was that? 21 A He was stating that security staff failed to 22 notify him due to a disability that he has of -- of being 23 hard of hearing that -- that staff in his case failed to 24 notify him when doors were going to be open and closed at 25 the Estelle Unit.</p>	<p style="text-align: right;">Page 11</p> <p>1 matter, this case, Haverkamp vs. Linthicum, et al.? 2 A This is my first time being deposed for this 3 case. 4 Q I think my question's a little different. 5 Have you been retained as an expert for this 6 case? 7 A Yes, sir. 8 Q Okay. And what is the subject of your expert 9 testimony in this case? 10 A Again, the security policies we have in reference 11 to transgender inmates within our -- within our care, and 12 it's just the arena of security policies and also laundry 13 services that we have in place within our institutions. 14 Q And in your -- but in your capacity today, you're 15 not testifying as an expert; is that right? 16 A Yes. For the -- for the State of Texas, yes, 17 to -- for TDCJ, yes. 18 Q Yes, you are not testifying as an expert? 19 A Yes, I am considered an expert for this case. 20 Q Okay. And are you going to issue an expert 21 report in this case when expert reports are due? 22 A No, sir. 23 Q So you've been designated by TDCJ to testify on 24 behalf of TDCJ in response to certain 30(b)(6) topics, 25 correct?</p>
<p style="text-align: right;">Page 10</p> <p>1 Q Have you ever testified in a case involving a 2 transgender inmate? 3 A No, sir. 4 Q Have you ever testified in any cases regarding 5 TDCJ's policies and procedures regarding transgender 6 inmates? 7 A No, sir. 8 Q Have you ever testified at trial in front of a 9 judge or a jury? 10 A Once. I think it was the late '90s, if I can 11 remember. 12 Q And what kind of case was that? 13 A It was a case where the inmate claimed an officer 14 used excessive force. 15 Q Have you ever been retained as an expert witness 16 in any litigation or arbitration or other proceeding? 17 A What do you mean by "retain"? I was an expert 18 witness on the last deposition in the -- 19 Q Oh, okay. That's -- that's what I meant. 20 A Yes, sir. 21 Q And what was your expertise about in the last 22 deposition? 23 A Just as security procedures and practice we have 24 within the prison system. 25 Q Have you been retained as an expert for this</p>	<p style="text-align: right;">Page 12</p> <p>1 A Yes. 2 Q And you've prepared to testify about those 3 topics, right? 4 A Yes. 5 Q Am I understanding correctly that you are also 6 serving as an expert witness for TDCJ in this matter? 7 A Yes. 8 Q Okay. And you will later issue an expert report 9 in this matter about these issues? 10 A If I'm required to do so, I could, yes, sir. 11 Q Okay. When were you retained as an expert by 12 TDCJ in this matter? 13 A I do not know the exact date I was retained. 14 Q Do you have a retainer agreement with TDCJ about 15 that? 16 A A retainer agreement? I know I was notified of 17 being an expert witness for this case. Not sure what 18 paperwork that was requiring. 19 Q You didn't sign an agreement about the scope of 20 your expert testimony in this case or confirming that 21 you're going to be an expert witness in this case? 22 A I was notified that I would be the expert witness 23 and did sign an affidavit on some interrogatories. 24 Q Okay. But your testimony today is not as an 25 expert witness. You are, today, a representative of TDCJ;</p>

<p style="text-align: right;">Page 13</p> <p>1 is that correct?</p> <p>2 A I am designated as an expert witness for TDCJ for</p> <p>3 this case.</p> <p>4 Q Okay. I haven't received any designation of you</p> <p>5 as an expert prior to today, so this comes as a bit of a</p> <p>6 surprise to me, but we -- we can take that up later.</p> <p>7 My understanding of your testimony today is on</p> <p>8 behalf of TDCJ and is binding on behalf of TDCJ as a party</p> <p>9 in this matter; is that right?</p> <p>10 A Yes, sir. As a 30(b)(6) witness, I guess you</p> <p>11 could say. Yes, sir.</p> <p>12 Q And you are not testifying today in your capacity</p> <p>13 as an expert witness for this matter, right?</p> <p>14 A That sounds correct. I must have got it</p> <p>15 confused, yes, sir.</p> <p>16 Q Other than this matter and the matter on which</p> <p>17 you were deposed last week, have you ever been retained to</p> <p>18 serve as an expert witness in any other matter?</p> <p>19 A Not that I can recall, no, sir.</p> <p>20 Q Have you ever prepared an expert report for any</p> <p>21 lawsuit or matter?</p> <p>22 A No, sir.</p> <p>23 Q Is there any reason that you cannot give full and</p> <p>24 accurate testimony today?</p> <p>25 A No, sir.</p>	<p style="text-align: right;">Page 15</p> <p>1 transgenders are located on their facility, what type of</p> <p>2 policies, if any -- unit policies we had in place for them</p> <p>3 while in custody at their unit, and any -- any security</p> <p>4 concerns within that population.</p> <p>5 Q Okay. Let's start with the last one you</p> <p>6 mentioned. Security concerns within the unit population.</p> <p>7 And I guess that's specific to the McConnell Unit?</p> <p>8 A Yes, sir.</p> <p>9 Q What, if any, security concerns were there in</p> <p>10 your discussions with Warden Holmes?</p> <p>11 A So when we have inmates that are -- are -- are</p> <p>12 designating as transgender or even safekeeping, we look at</p> <p>13 how do they become a security concern for the inmate</p> <p>14 population there on the facility and the staff. With them,</p> <p>15 in some cases, acting as a female or projecting them as a</p> <p>16 female, it does cause a security concern by staff taking</p> <p>17 extra precautions when they're on the facility or walking</p> <p>18 throughout the facility.</p> <p>19 Q And what specific security concerns are those?</p> <p>20 A Well, basically, when you have some inmates that</p> <p>21 truly want to project themselves as a female, there is a</p> <p>22 tendency for the male population to want to advance towards</p> <p>23 them either in a sexual manner. So we have to ensure</p> <p>24 that -- in some cases, protect the inmate population when</p> <p>25 they look more like a female. And protection is by doing</p>
<p style="text-align: right;">Page 14</p> <p>1 Q Mr. Guerrero, what did you do to prepare yourself</p> <p>2 to testify today?</p> <p>3 A I reviewed different policies we have in place.</p> <p>4 Again, our laundry policies, some of our security policies.</p> <p>5 I've talked to a few wardens out there in the field that</p> <p>6 houses transgenders and other safekeeping type of inmates</p> <p>7 that we have throughout the state of Texas. I reviewed our</p> <p>8 Safe Prisons procedures, looked at some classification</p> <p>9 procedures on inmates within our custody, refreshed my</p> <p>10 memory on our grievance practices when inmates file</p> <p>11 grievances while incarcerated, and looked over the</p> <p>12 grievances that was submitted by Mr. Haverkamp.</p> <p>13 Q Who are the wardens that you talked to?</p> <p>14 A Elbert Holmes was a warden that I talked to.</p> <p>15 Another one is Michael Britt. I've talked to Lonnie</p> <p>16 Townsend, and then I believe Christopher Norsworthy.</p> <p>17 Q Okay. Let's start with Elbert Holmes.</p> <p>18 Where is -- where is that person a warden?</p> <p>19 A He was the senior warden at the McConnell Unit.</p> <p>20 He is now the Region IV director.</p> <p>21 Q Okay. What did you and Warden Holmes talk about?</p> <p>22 A And it's been -- it was all one conversation with</p> <p>23 the wardens as a group.</p> <p>24 Basically, talked to them about the type of</p> <p>25 inmates we have on their facility, talked about where the</p>	<p style="text-align: right;">Page 16</p> <p>1 extra security searches and -- and pat searches to ensure</p> <p>2 that there's not -- there's not going to be any physical</p> <p>3 assaults.</p> <p>4 Q And those are searches of the transgender</p> <p>5 inmates?</p> <p>6 A All inmates within our custody are searched. So</p> <p>7 we do pat searches and strip searches of -- of all the</p> <p>8 different custodies we have on the facility.</p> <p>9 Q Okay. So you mentioned security concerns about</p> <p>10 transgender inmates on the McConnell Unit. And we'll talk</p> <p>11 a little bit more about the actual policies, but now I'm</p> <p>12 just asking about what you talked about with Warden Holmes.</p> <p>13 You mentioned you-all talked about unit policies.</p> <p>14 What unit policies are those?</p> <p>15 A So in some cases, in -- there's some unit SOPs,</p> <p>16 special orders that we have in place. You know, standard</p> <p>17 operating procedures is an SOP. And I was just asking him</p> <p>18 if there was any standard SOPs or special orders when</p> <p>19 managing those type of offenders if they were assigned to</p> <p>20 their facility.</p> <p>21 Q And were there any SOP orders at the McConnell</p> <p>22 Unit?</p> <p>23 A No, sir, not that I can recall. No, sir.</p> <p>24 Q And what measures specifically did Warden Holmes</p> <p>25 mention specifically relating to transgender inmates?</p>

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1 A When we have transgender inmates, there has been  
2 incidents where we have a higher increase of inmate  
3 protection investigations. And so when we have those cases  
4 either by the transgender themselves filing the request,  
5 what we have to do is place that individual in a separate  
6 housing to conduct the investigation because that  
7 individual may have felt that his safety was in jeopardy or  
8 just -- or being just threatened or harassed from a male  
9 inmate on that -- on that facility. And it's not just  
10 McConnell. It's -- it's across the state.  
11 Q Okay. So increased incident reporting. You also  
12 mentioned having to house transgender inmates separately.  
13 Any other issues you talked about with Warden  
14 Holmes?  
15 A Transgender inmates are not housed separately.  
16 They're housed within their custody. So depending on what  
17 their custody is, if they're a general population, Level 2,  
18 Level 3, Level 4, Level 5, they live with that custody.  
19 They are not separated by themselves. And when I say  
20 "separation" -- so if they file an inmate protection  
21 investigation, that specific inmates needs to be separated.  
22 Q Okay. Got it.  
23 What is an inmate protection investigation?  
24 A So an inmate or someone else can claim that a  
25 specific individual's life may be in danger. And so what

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1 the -- the unit administration is required to do is to  
2 separate the individual from the general population and  
3 conduct an investigation to see if there is evidence to  
4 support those allegations that he may -- his life may be in  
5 danger. Upon completion of the investigation, it is  
6 reviewed by a unit classification committee.  
7 Q Okay. Anything else you talked about with Warden  
8 Holmes?  
9 A Not that I can recall.  
10 Q Okay. And what about your conversation with  
11 Michael -- I wrote down Rhett.  
12 A Michael Britt.  
13 Q Could you spell that for me.  
14 A B-R-I-T-T.  
15 Q Okay. What did you and Warden Britt talking  
16 about?  
17 A It was -- so it was basically a call with all the  
18 wardens -- those wardens at the time -- about just the  
19 inmate population they have on their facility. So it was  
20 just kind of a discussion between the group. So it was  
21 probably the same type of questions with Michael Britt,  
22 L.E. Townsend, and Christopher Norsworthy.  
23 Q And what units are those wardens, wardens for?  
24 A Yes, sir. Michael Britt is at the Estelle Unit.  
25 Christopher Norsworthy was at the Stiles unit. He has

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1 retired. And -- and -- I'm going blank on my last one.  
2 Elbert Holmes -- and, of course, L.E. Townsend. L.E.  
3 Townsend was the warden at the Michael unit. He is now the  
4 Region --  
5 Q At which unit? Sorry.  
6 A Michael.  
7 He is now the Region V director.  
8 Q Did you talk to anybody at the Connally Unit?  
9 A Not on that specific call. I did talk to Warden  
10 Cueto when Mr. Haverkamp was moved from Stiles to Connally.  
11 Q Okay. But preparing for this deposition, you  
12 didn't talk to anybody at the Connally Unit about TDCJ's  
13 procedure?  
14 A No, sir.  
15 Q And I had asked about policies, things you talked  
16 about in that call with the other wardens. And I was  
17 specifically asking you about what Warden Holmes was  
18 telling you.  
19 In the broader call, what else was talked about  
20 besides what you already talked about in specific to Warden  
21 Holmes?  
22 A I believe I -- we discussed what items were  
23 available in the commissary department on a male facility.  
24 In specific to Warden Holmes, I believe we discussed  
25 showers, how it's done on those facilities, and may have

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1 discussed the distribution of laundry services to the  
2 inmate population.  
3 Q Okay. And what did you tell those wardens in  
4 that call?  
5 A I think it was more of a conversation. I don't  
6 recall specifically. I did ask them questions about  
7 inmates and transgender status. You know, just -- just  
8 kind of refreshing my memory of -- of what is provided in  
9 some of the policies and practices we have on the facility.  
10 Q And what did you-all discuss that was provided to  
11 transgender inmates on that call?  
12 A In a commissary department, there's no specific  
13 items. It's -- it's all the same for the male population  
14 on those facilities. We -- we talked about if bras were  
15 issued by -- by medical orders that, you know, it would be  
16 provided through the laundry services department. And then  
17 we just discussed the procedures on showers, how an inmate  
18 must be alone, not shower in front of others when they  
19 decided to take a shower.  
20 Q And is that a procedure -- that shower procedure  
21 specific to transgender inmates?  
22 A Yes.  
23 Q What about the provision of panties? Did you-all  
24 discuss any policies or procedures about providing panties  
25 to transgender inmates?

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1 A I don't -- I don't know if we discussed. I know  
2 that our laundry policy does not provide panties to the  
3 male population.  
4 Q And did you discuss the availability of sex  
5 reassignment surgery or any policies relating to sex  
6 reassignment surgery with those wardens?  
7 A No, sir.  
8 Q Okay. So other than that call you had with those  
9 four wardens and the warden at the Connally Unit, who else  
10 have you talked to in preparation for your testimony today?  
11 A I believe I talked to Tim Fitzpatrick -- he's our  
12 director in classification -- to refresh my memory on -- on  
13 where we have inmates that are considered transgender.  
14 Q Okay. And what did Mr. Fitzpatrick tell you?  
15 A Just that they could be housed on many different  
16 facilities across the state due to their possibility of  
17 changing what they may decide who they are, if they're a  
18 transgender inmate or not.  
19 Q Any other conversations with anybody in  
20 preparation for this deposition today?  
21 A I -- I did reach out to Andrea Lozada. She's a  
22 warden at -- over at Mountain View and Hilltop. It's a --  
23 it's a complex of two facilities close by each other. And  
24 she's a warden over the female population.  
25 And just discussed with her any female

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1 transgender that we have in our custody over there and if  
2 there was any specific policies we had in place.  
3 Q And what did she tell you about that?  
4 A Just that she -- that there was no specific  
5 policies that she has put out, any standard operating  
6 procedures or -- or specific post orders in place.  
7 Basically, mentioned about the same practices we have in  
8 place on the female side of the house as we do on the  
9 males.  
10 Q And did you discuss any security threats with  
11 Ms. Lozada?  
12 A No, sir. Not that I can recall.  
13 Q And did you talk with Dr. Linthicum about this  
14 case prior to this deposition?  
15 A No, sir.  
16 Q Did you meet with any lawyers to prepare for this  
17 deposition?  
18 A I did talk to Jennifer Childress and Mr. Michael  
19 Calb.  
20 Q For about how long did you meet with your  
21 lawyers?  
22 A A little over an hour a few days ago.  
23 Q Did they give you any documents to look at?  
24 A Yes, they did.  
25 Q Did those documents refresh your recollection?

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1 A They did.  
2 Q Which documents were those?  
3 A Received the grievances that were submitted by  
4 Mr. Haverkamp, some policies related to our barbershops,  
5 policies related to our security precaution designators,  
6 grievance procedures, Correctional Managed Health Care  
7 procedures on inmates. I believe there was a Safe Prison  
8 policy -- a Safe Prison plan, a couple policies from there,  
9 and identification cards. And I believe there was a  
10 classification procedures that was provided.  
11 Q Was anyone besides you and those lawyers present  
12 at that meeting you had the other day?  
13 A No, sir.  
14 Q Did you speak with anybody at UTMB in preparation  
15 for this deposition?  
16 A No, sir.  
17 Q Did you speak with anybody else at all in  
18 preparation for this deposition?  
19 A No, sir.  
20 Q And I understand that you've been retained as an  
21 expert in this case. Have you spoken with any other  
22 experts in this case?  
23 A No, sir.  
24 Q You understand that you're testifying at this  
25 deposition today as the corporate representative at TDCJ

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1 regarding certain notice topics, right?  
2 A Yes.  
3 Q From my notes, you've been designated to testify  
4 regarding Topics 2, 3, 5, 14, and I think 16 and 17; is  
5 that correct?  
6 A Could you show me what those topics were.  
7 Those --  
8 Q Yep. I will -- I will introduce what I'll mark  
9 as Exhibit 11. Putting it in the chat.  
10 (Exhibit No. 11 marked for identification.)  
11 Q (BY MR. FACTOR) And this is Plaintiff's Second  
12 Amended 30(b)(6) Deposition Notice. Did you receive this  
13 notice?  
14 A Yes, sir.  
15 Q And are you prepared to testify regarding Topic  
16 2, which I've highlighted on this screen?  
17 A Yes.  
18 Q Are you prepared to testify about Topic 3, which  
19 I've highlighted on the screen?  
20 A Yes.  
21 Q Topic 5, which I've highlighted on the screen --  
22 and I think you've been designated on Topic 5 with respect  
23 to TDCJ correctional officer training.  
24 Are you prepared to testify on that topic today?  
25 A Yes.

<p style="text-align: right;">Page 25</p> <p>1 Q The next one I have is Topic 14, and that is "All</p> <p>2 policies, procedures, protocol, memoranda, circulars, or</p> <p>3 other agency guidance relating to the provision of</p> <p>4 long-hair passes, panties, bras, and cosmetics to inmates."</p> <p>5 Are you prepared to testify on that topic today?</p> <p>6 A Yes.</p> <p>7 Q And the next one is Topic 16. "All unit</p> <p>8 transfers of Plaintiff and TDCJ's review of and responses</p> <p>9 to any transfer requests."</p> <p>10 A Yes.</p> <p>11 Q And 17. "All transportation, accommodation,</p> <p>12 housing, and safekeeping classifications of plaintiff and</p> <p>13 inmates with gender dysphoria."</p> <p>14 Are you prepared to testify about Topic 17?</p> <p>15 A Yes.</p> <p>16 Q And I'm actually not sure about Topic 18, so I'll</p> <p>17 ask. "All conclusions, analyses, determinations, opinions,</p> <p>18 or studies conducted, reached, or considered by UTMB, TDCJ,</p> <p>19 and Defendants regarding medical treatments for gender</p> <p>20 dysphoria."</p> <p>21 A No.</p> <p>22 Q Okay. Not Topic 18?</p> <p>23 A No, sir.</p> <p>24 Q Do you understand that for those topics, you're</p> <p>25 testifying regarding any knowledge that TDCJ has regarding</p>	<p style="text-align: right;">Page 27</p> <p>1 Q Did you make any notes during those depositions?</p> <p>2 A No, sir.</p> <p>3 Q Did you discuss those depositions with anyone?</p> <p>4 A No, sir.</p> <p>5 Q Please briefly describe your educational</p> <p>6 background.</p> <p>7 A I have a Bachelor's degree in Criminal Justice</p> <p>8 Administration.</p> <p>9 Q What year did you receive that and from where?</p> <p>10 A 2019 from Columbia Southern University.</p> <p>11 Q You're currently employed by TDCJ; is that right?</p> <p>12 A Yes.</p> <p>13 Q How long have you been with TDCJ?</p> <p>14 A A little over 29 years.</p> <p>15 Q What's your current title?</p> <p>16 A I'm the Deputy Division Director for the</p> <p>17 Correctional Institutions Division.</p> <p>18 Q How long have you held that role?</p> <p>19 A Three years and seven months.</p> <p>20 Q Who do you report to at TDCJ?</p> <p>21 A Bobby Lumpkin.</p> <p>22 Q And what's -- Mr. Lumpkin is the director of</p> <p>23 TDCJ?</p> <p>24 A He's the director of the Correctional</p> <p>25 Institutions Division.</p>
<p style="text-align: right;">Page 26</p> <p>1 those topics?</p> <p>2 A Yes.</p> <p>3 Q Do you understand that those answers that you</p> <p>4 provide today will be binding on TDCJ?</p> <p>5 A Yes.</p> <p>6 Q Do you understand that TDCJ had an obligation to</p> <p>7 prepare you to testify completely and accurate regarding</p> <p>8 these topics?</p> <p>9 A Yes.</p> <p>10 Q And do you understand that when you are answering</p> <p>11 my questions today, you're expressing the views of TDCJ,</p> <p>12 right?</p> <p>13 A Yes.</p> <p>14 Q Do you have any medical training?</p> <p>15 A In our academy, we have some basic medical</p> <p>16 training, but not beyond that.</p> <p>17 Q You're not a doctor, nurse, or other licensed</p> <p>18 healthcare professional, correct?</p> <p>19 A Correct.</p> <p>20 Q And you attended Haverkamp's deposition in this</p> <p>21 matter; is that right?</p> <p>22 A Yes.</p> <p>23 Q You also attended Dr. Owen Murray's deposition in</p> <p>24 this matter; is that right?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 28</p> <p>1 Q Okay. And just kind of what is the Correctional</p> <p>2 Institution Division in very broad strokes?</p> <p>3 A Oversees the prisons.</p> <p>4 Q Who at TDCJ reports to you?</p> <p>5 A The regional directors, specifically the Region I</p> <p>6 director and the Region IV director, and then the director</p> <p>7 over classification and records.</p> <p>8 Q In what -- what roles at TDCJ did you hold prior</p> <p>9 to becoming Deputy Director of the Correctional Institution</p> <p>10 Division?</p> <p>11 A I held all the security ranks from a correctional</p> <p>12 officer through a major of security. I was an assistant</p> <p>13 warden for a couple of years. I was a senior warden for</p> <p>14 about five years. I was the Region VI director for three</p> <p>15 years, and I was the training director for about three</p> <p>16 years.</p> <p>17 Q And moving to just your current role as deputy</p> <p>18 director of the Correctional Institutions Division, what</p> <p>19 are your roles and responsibilities?</p> <p>20 A I help oversee the security operations of the</p> <p>21 facilities all within Region I, which is in the Huntsville</p> <p>22 area, and then Region IV in the South Texas area. Just</p> <p>23 managing of the wardens on the facility and all the</p> <p>24 security staff. And we do have some departments that fall</p> <p>25 under the Correctional Institutions Division. If it's</p>

<p style="text-align: right;">Page 29</p> <p>1 classification, mailroom. We have some intake staff that</p> <p>2 falls under the Correctional Institutions Division that</p> <p>3 falls under my purview.</p> <p>4 Q What are your roles and responsibilities with</p> <p>5 regard to inmate medical requests?</p> <p>6 A My -- that is -- that is -- when an inmate is</p> <p>7 submitting any type of a sick call or a request, that goes</p> <p>8 directly to the facility he's assigned to, if it's the</p> <p>9 University of Texas Medical Branch in this area of the</p> <p>10 state; in the panhandle and the west part of the state, it</p> <p>11 may be Texas Tech. So all medical concerns or requests are</p> <p>12 done by those two universities.</p> <p>13 Q Okay. And what's your relationship to those? Do</p> <p>14 you have any role with respect to those medical requests</p> <p>15 that -- UTMB and Texas Tech's review of those medical</p> <p>16 requests?</p> <p>17 A Our responsibility within the Correctional</p> <p>18 Institutions Division is just to ensure that the inmates</p> <p>19 are taken to medical when needed and provide any basic</p> <p>20 medical care while they're in the housing area. Also --</p> <p>21 Q Go ahead.</p> <p>22 A Also, we have -- the wardens have dialogue with</p> <p>23 the medical staff on the facility to see if there's any</p> <p>24 needs that -- that they're needing assistance with.</p> <p>25 Q Okay. And those medical staff on facility, those</p>	<p style="text-align: right;">Page 31</p> <p>1 Q And what's your responsibility personally with</p> <p>2 respect to that committee and those classifications?</p> <p>3 A Just at a high level ensuring that we're</p> <p>4 following our procedures in place.</p> <p>5 Q Are you on the committee --</p> <p>6 A No, sir.</p> <p>7 Q -- the classification committee?</p> <p>8 What -- who is on the classification committee?</p> <p>9 A On the facility, so you have a chairman, which</p> <p>10 could be the senior warden or assistant warden. In some</p> <p>11 cases, it's the major or chief of classification, but in</p> <p>12 most cases, it's the warden of the facility. Then we could</p> <p>13 have a security member. Normally, it's a three-person</p> <p>14 committee. And so we would have -- most cases, senior</p> <p>15 warden, it's chief of classification, and then a security</p> <p>16 member, which would be a lieutenant or above.</p> <p>17 In some cases, we would have medical present</p> <p>18 during those committees. We could have the laundry captain</p> <p>19 as a third member. But you would always have a major or</p> <p>20 above as a chairman.</p> <p>21 Q And the committee reports to you?</p> <p>22 A The committee reports to -- of course, the warden</p> <p>23 does report to the regional director and myself. The</p> <p>24 classification committee falls under the classification</p> <p>25 department, which falls under our state classification</p>
<p style="text-align: right;">Page 30</p> <p>1 are TDCJ employees, not UTMB employees, right?</p> <p>2 A They're -- they're UTMB employees.</p> <p>3 Q But they work on facilities?</p> <p>4 A They do, yes, sir.</p> <p>5 Q And they report to the warden?</p> <p>6 A No, sir. So they have their own director that</p> <p>7 they fall under within UTMB.</p> <p>8 Q And who is that, if you know?</p> <p>9 A I believe -- I believe Dr. Owens is the medical</p> <p>10 director over UTMB.</p> <p>11 Q Dr. Murray?</p> <p>12 A I'm sorry. Dr. Murray, yes, sir.</p> <p>13 Q What are your roles and responsibilities with</p> <p>14 regard to inmate classifications?</p> <p>15 A I oversee the director and the actual</p> <p>16 classification and records department. We just ensure that</p> <p>17 inmates that are brought in from the county jail is</p> <p>18 appropriately housed. There's an evaluation done of each</p> <p>19 inmate when they're incarcerated, not only just from the</p> <p>20 sociologists that fall under classification, but they're</p> <p>21 also reviewed by the medical department on the facility.</p> <p>22 And then when inmates are transferred to a new</p> <p>23 facility, they go through a -- not necessarily an intake</p> <p>24 process, but they are reviewed by unit classification</p> <p>25 committee each time they come into a facility.</p>	<p style="text-align: right;">Page 32</p> <p>1 committee. And then, of course, our classification and</p> <p>2 director.</p> <p>3 Q Okay. And the classification director reports to</p> <p>4 you, right?</p> <p>5 A Yes.</p> <p>6 Q What are your roles and responsibilities with</p> <p>7 respect to inmate transfer requests?</p> <p>8 A I don't have direct roles. That is all done by</p> <p>9 the unit warden if -- depending on the situation, if he or</p> <p>10 she requests a transfer. In some cases, inmates are moved</p> <p>11 to another facility because of educational needs. Some</p> <p>12 inmates are moved because of medical needs. And that is</p> <p>13 all done through the classification department. I don't</p> <p>14 have any specific roles on moving the 129,000 inmates we</p> <p>15 have.</p> <p>16 Q And the classification department is responsible</p> <p>17 for inmate unit transfers requests. Is that about right?</p> <p>18 A Not necessarily. So the -- if it's the unit</p> <p>19 classification committee is requesting for a transfer, that</p> <p>20 is submitted to the state classification committee, which</p> <p>21 is in our classification and records department. And they</p> <p>22 would determine where to move that inmate to the most</p> <p>23 appropriate facility.</p> <p>24 Q Okay. And "they" being the state classification</p> <p>25 committee; is that right?</p>

<p style="text-align: right;">Page 33</p> <p>1 A The state classification would determine where</p> <p>2 the appropriate facility is needed for that specific</p> <p>3 inmate.</p> <p>4 Q And what are your roles and responsibilities with</p> <p>5 respect to TDCJ's policies?</p> <p>6 A As a -- as a deputy director, we have our own</p> <p>7 department that oversees our prison policies. And I would</p> <p>8 assist them when necessary with any revisions or with the</p> <p>9 policy or -- or any issuing out to that policy to the -- to</p> <p>10 the facilities itself.</p> <p>11 Q So you're involved with revisions to prison</p> <p>12 policies, right?</p> <p>13 A There are -- yes. And there's many others, yes,</p> <p>14 sir.</p> <p>15 Q What other types of policies are you involved</p> <p>16 with?</p> <p>17 A Well, just saying that it's not just me as a</p> <p>18 deputy director that approves or looks at the revisions.</p> <p>19 There's many others within TDCJ depending on what the</p> <p>20 policy is discussing. It may not just be people within the</p> <p>21 prison side of the house that reviews the TDCJ policies.</p> <p>22 Q Got it. But you're the person on the prison side</p> <p>23 of the house that does review the TDCJ policies?</p> <p>24 A I am one of them, yes, sir.</p> <p>25 Q Are you on any committees that develop or update</p>	<p style="text-align: right;">Page 35</p> <p>1 Group?</p> <p>2 A That's -- so there's -- there's some -- there's a</p> <p>3 couple of different suicide prevention groups. There's one</p> <p>4 within TDCJ, but the Health Services Division does have a</p> <p>5 group that goes over the suicides monthly that I do</p> <p>6 participate in. I don't know if it's called a suicide</p> <p>7 committee, but there is a group that reviews the suicides</p> <p>8 we had.</p> <p>9 Q There's -- I -- I thought I saw your name on a</p> <p>10 list of a joint working group for the Correctional Managed</p> <p>11 Health Care Committee Suicide Prevention Working Group.</p> <p>12 Does that sound familiar at all?</p> <p>13 A I -- I know that I do look at our suicide</p> <p>14 prevention. And I might be part of -- I mean, I do</p> <p>15 definitely work with the Health Services division and -- if</p> <p>16 it's UTMB and so on. I -- if it's called a committee, I</p> <p>17 don't recall, but I do work with them, yes, sir.</p> <p>18 Q Are you involved in any way with TDCJ's policies</p> <p>19 relating to transgender inmates?</p> <p>20 A Can you ask that question one more time.</p> <p>21 Q Are you involved in any way with respect to</p> <p>22 TDCJ's policies relating to transgender inmates?</p> <p>23 A I would say yes, because of my role, I have the</p> <p>24 ability to review our policies that we have in place.</p> <p>25 Q Okay. Which policies specifically are you</p>
<p style="text-align: right;">Page 34</p> <p>1 policies? Like what are those committees called?</p> <p>2 A It's not a committee. So we have our Plans and</p> <p>3 Operations Department that requests from the field if</p> <p>4 there's any recommended revisions. And those policies</p> <p>5 would come through my office for me to review to see if</p> <p>6 those changes are needed or if any additional changes were</p> <p>7 needed.</p> <p>8 Q Other than your role as deputy director, do you</p> <p>9 hold any other roles or titles within TDCJ?</p> <p>10 A No, sir.</p> <p>11 Q Are you involved in any way with the correctional</p> <p>12 health -- or Correctional Managed Health Care Committee?</p> <p>13 A We do communicate with them on -- on monthly</p> <p>14 meetings. Most cases, it is the director of the</p> <p>15 Correctional Institutions Division, Mr. Lumpkin. In some</p> <p>16 cases, I will go to those meetings if they have them</p> <p>17 monthly or quarterly.</p> <p>18 Q So you report to the Correctional Managed Health</p> <p>19 Care Committee at their meetings?</p> <p>20 A I'm -- I'm part of their meetings at times, yes,</p> <p>21 sir.</p> <p>22 Q Are you on any Correctional Managed Health Care</p> <p>23 Committee subcommittees?</p> <p>24 A No, sir.</p> <p>25 Q You're not on the Suicide Prevention Working</p>	<p style="text-align: right;">Page 36</p> <p>1 referring to with respect to policies relating to</p> <p>2 transgender inmates?</p> <p>3 A So there's many different policies that discusses</p> <p>4 transgenders. One is the -- the laundry procedures manual.</p> <p>5 There's one in the Safe Prisons procedures manual and then</p> <p>6 our intake policies within the classification department.</p> <p>7 Q What about G-51.11? Any involvement with that</p> <p>8 policy?</p> <p>9 A I -- I am aware of that policy, but not any</p> <p>10 specific role on any changes or revision, if needed.</p> <p>11 Q So you're responsible for revising and updating</p> <p>12 prison policies that affect transgender inmates; is that</p> <p>13 right?</p> <p>14 A Yes, sir.</p> <p>15 Q You were a warden at the McConnell Unit?</p> <p>16 A No, sir.</p> <p>17 Q Where were you a warden?</p> <p>18 A I was a warden at the Glossbrenner facility. I</p> <p>19 was a warden at Segovia/Lopez, and I was the warden at</p> <p>20 Wallace/Ware.</p> <p>21 Q Did you ever work at the McConnell facility?</p> <p>22 A I did.</p> <p>23 Q While you were there, did you ever interact with</p> <p>24 Bobbie Haverkamp?</p> <p>25 A Not that I can recall.</p>

<p style="text-align: right;">Page 37</p> <p>1 Q Other than your involvement with this case, have</p> <p>2 you ever personally or professionally interacted with</p> <p>3 Haverkamp while you've been at TDCJ?</p> <p>4 A Not that I know of, no, sir.</p> <p>5 Q Let's talk about Topic 2, which is "TDCJ's review</p> <p>6 of and responses to Plaintiff's grievances."</p> <p>7 What materials did you review to prepare for this</p> <p>8 topic?</p> <p>9 A Just looked at the grievances themselves and our</p> <p>10 responsibility to respond to the grievances when one is</p> <p>11 submitted.</p> <p>12 Q And what are TDCJ's responsibilities in</p> <p>13 responding to grievances?</p> <p>14 A So it depends on, if it's Mr. Haverkamp or</p> <p>15 anybody else, if he filed a grievance against a specific</p> <p>16 individual, then, one, that grievance is sent to the</p> <p>17 grievance department on the facility, if it's a Step 1</p> <p>18 grievance.</p> <p>19 The grievance coordinator or supervisor is</p> <p>20 responsible for getting a statement from the individual, if</p> <p>21 one is filed directly against them, and to getting the</p> <p>22 evidence that would either support or -- or not support the</p> <p>23 allegation.</p> <p>24 Q So the inmate submits a Step 1 grievance, and</p> <p>25 TDCJ's grievance investigator does some fact-finding. Is</p>	<p style="text-align: right;">Page 39</p> <p>1 Those grievances would go to them for a review, unless it's</p> <p>2 medical, then it goes back to medical again.</p> <p>3 Q So Step 2, the grievance goes to a different</p> <p>4 department, the grievance investigation department?</p> <p>5 A Yeah, so -- so, of course, it goes on the</p> <p>6 facility, the grievance coordinator on the facility</p> <p>7 receives it. When they know it's a Step 2 grievance, then</p> <p>8 it's sent off to the Administrative Review and Risk</p> <p>9 Management division or back to the Health Services.</p> <p>10 Q And who at administrative management that -- that</p> <p>11 committee, who's responsible for reviewing those Step 2</p> <p>12 grievances?</p> <p>13 A I'm not sure who the actual supervisor in the</p> <p>14 ARRM -- in the Administrative Review and Risk Management</p> <p>15 division is. You know, they have director and deputy</p> <p>16 directors also. I'm not sure exactly who the grievance</p> <p>17 supervisor is.</p> <p>18 Q Okay. So it's a couple of layers of</p> <p>19 fact-finding. At Step 1, it's the grievance investigator</p> <p>20 on site and possibly some medical staff and the warden all</p> <p>21 investigate and do fact-finding before they issue a</p> <p>22 grievance response, right?</p> <p>23 A That'd be -- yes, sir.</p> <p>24 Q And then there's another layer of fact-finding at</p> <p>25 Step 2, and that's with the administrative review</p>
<p style="text-align: right;">Page 38</p> <p>1 that how the process works?</p> <p>2 A Pretty much, yes, sir.</p> <p>3 Q What kind of fact-finding does the investigator</p> <p>4 do for Step 1 grievances?</p> <p>5 A Well, it depends. You know, there could be</p> <p>6 different types of grievances. You know, if it's a -- if</p> <p>7 it's a medical-related grievance, that is sent over to the</p> <p>8 medical department for a response. And if it's for some</p> <p>9 type of a religious accommodation, that's sent over to our</p> <p>10 Rehabilitation Programs Division, and then -- but if it's</p> <p>11 basic complaints within the prison, then that is -- is,</p> <p>12 again, you know, looked into the facts, gather the</p> <p>13 information, and then that is reviewed by the unit warden.</p> <p>14 Q Okay. And then if a Step 1 grievance is denied,</p> <p>15 what's the next step in that process?</p> <p>16 A The inmate could file a Step 2 grievance.</p> <p>17 Q And what's the process once an inmate files a</p> <p>18 Step 2 grievance?</p> <p>19 A So it is -- depending on again what type of</p> <p>20 grievance it is, it would be sent to -- if the ARRM</p> <p>21 division, what's -- what's called the Administrative Review</p> <p>22 and Risk Management, they have a grievance department.</p> <p>23 They're the grievance department that oversees the</p> <p>24 grievance investigators. Because the grievance department</p> <p>25 doesn't fall within the Correctional Institutions Division.</p>	<p style="text-align: right;">Page 40</p> <p>1 department, possibly another review by medical, and again</p> <p>2 by the warden?</p> <p>3 A No, sir.</p> <p>4 Q Not by the -- the second level of fact-finding is</p> <p>5 just the administrative review department, and then the</p> <p>6 Step 2 response goes back to the inmate; is that right?</p> <p>7 A Yes, correct.</p> <p>8 Q So my client, Bobbie Haverkamp, has submitted</p> <p>9 grievances regarding denial of sex reassignment surgery</p> <p>10 starting in 2015, right?</p> <p>11 A Yes, sir.</p> <p>12 Q TDCJ has denied all of Haverkamp's grievances</p> <p>13 relating to sex reassignment surgery, right?</p> <p>14 A I -- I know they have not informed us of any</p> <p>15 inmates who need a sex reassignment.</p> <p>16 Q And they've denied all the grievances that</p> <p>17 Haverkamp has submitted, correct?</p> <p>18 A Correct.</p> <p>19 Q In the more than eight years since Haverkamp</p> <p>20 submitted the first grievance for sex reassignment surgery,</p> <p>21 TDCJ has not allowed Haverkamp to receive sex reassignment</p> <p>22 surgery, correct?</p> <p>23 A Correct.</p> <p>24 Q TDCJ continues to not allow Haverkamp to receive</p> <p>25 sex reassignment surgery, correct?</p>

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1 A Can you ask that question again.

2 MR. FACTOR: Ms. McDaniel, could you read it

3 back, please.

4 THE REPORTER: Yes.

5 (WHEREUPON, the court reporter read back the

6 question).

7 THE WITNESS: We have not been informed that

8 it has -- has been approved for him to have sex

9 reassignment surgery.

10 Q (BY MR. FACTOR) TDCJ has not approved any

11 request by Haverkamp to receive sex reassignment surgery,

12 correct?

13 A Correct.

14 Q I'm going to put in the chat what's previously

15 been marked as Exhibit 3. And I'll share it on the screen.

16 (Exhibit No. 3 marked for identification.)

17 Q (BY MR. FACTOR) Are these the grievance

18 materials that you reviewed in preparing for this

19 deposition?

20 A Yes.

21 Q And I want to walk through -- and I'm going to go

22 to Page Haverkamp 003 to 004. And I'm just looking at the

23 date here. This is a Step 1 grievance that Haverkamp filed

24 on October 12th, 2015, correct?

25 A Yes.

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1 Q And Haverkamp writes: "On October 12th, 2014, in

2 Galveston I met with Dr. Walter Meyer, GID doctor and UTMB

3 negotiator agent. Dr. Meyer told me I had to be on hormone

4 a year before he would recommend gender reassignment."

5 Is that what this grievance says?

6 A Yes.

7 Q This says: "Throughout the year on hormones,

8 January 15th, 2015, I have confirmed with Dr. Meyer I want

9 gender reassignment surgery."

10 Is that what this says?

11 A Yes.

12 Q And later in the grievance, Haverkamp writes:

13 "Dr. Linthicum denies me medical care by not providing me

14 with surgery that perform gender reassignment. Her denial

15 of care is causing me anxiety to the point of mental pain."

16 Is that what this grievance says?

17 A Yes.

18 Q Haverkamp states: "I've been at this, I've

19 started my fourth year and have asked for a cure, gender

20 reassignment surgery."

21 Is that what this says?

22 A I believe it says "cure," but yes.

23 Q And the action requested to resolve the complaint

24 is, "I want gender reassignment surgery and a treatment

25 plan that shows what takes place and when." Signed

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1 October 12th, 2015.

2 Is that what this says?

3 A Yes.

4 Q So to summarize this Step 1 grievance, Haverkamp

5 had been on hormones for more than a year. And his

6 understanding was that after a year on hormone therapy,

7 he'd be recommended for gender reassignment surgery. Is

8 that about an accurate summary of this grievance?

9 A That's what he -- he wrote, yes, sir.

10 Q And two months later, TDCJ responds to

11 Haverkamp's Step 1 grievance. And this is on

12 December 29th, 2015, that TDCJ sends the response.

13 Before we go there, who is K. Long, PM?

14 A I don't know that specific person. Just a

15 practice manager, according to the grievance.

16 Q Is that practice manager, Practice Manager Long,

17 the grievance investigator?

18 A Not the grievance investigator. It's the -- the

19 authority within UTMB to provide a response to that

20 grievance.

21 Q Okay. So in the two months between October 12th,

22 2015, and December 29th, 2015, TDCJ did all those steps you

23 described. They assigned a grievance investigator. They

24 talked to the medical department. The warden looked at the

25 response; is that right?

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1 A The -- on medical grievances, that was -- is

2 reviewed by the medical staff.

3 Q Okay. So this grievance was reviewed by the

4 medical staff?

5 A Uh-huh.

6 Q Who else was this grievance reviewed by?

7 A Well, initially, it goes to the grievance

8 department and the grievance investigator issues out the

9 grievance itself to whatever department it needs to go to,

10 if it's the Health Services Division, for any

11 medical-related grievance.

12 Q Okay. So this -- this grievance had two levels

13 of review, and that was the grievance department and the

14 medical department, right?

15 A Yes.

16 Q And did the warden also review this grievance?

17 A I would have to see -- and that grievance, if

18 it's medical, it would be sent over to the medical

19 department.

20 Q Okay. And won't go back to the warden after?

21 A No. The grievance coordinator coded it medical.

22 Q Okay. And the December 29th, 2015, response

23 says: "Offender Haverkamp, you are requesting to know when

24 you can have gender reassignment surgery. You were seen at

25 Hospital Galveston on 12/15/15. You inquired about surgery

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1 then, but were told you must be on replacement or higher  
 2 estrogen for at least one year before surgery can even be  
 3 considered."  
 4 Is that what the response to this Step 1  
 5 grievance was?  
 6 A Yes.  
 7 Q And that was after that investigation process by  
 8 the grievance department and by medical, correct?  
 9 A Yes, sir, I would assume. Yes, sir.  
 10 Q Did TDCJ do anything else to investigate and  
 11 respond to this grievance?  
 12 A Not that I know of.  
 13 Q And going to Page Bates No. Haverkamp 006, this  
 14 fact-finding activity worksheet says "Sent to: Medical"; is  
 15 that right;  
 16 A Yes.  
 17 Q And medical's suggested response was the response  
 18 that went to Haverkamp. And that's "You inquired about  
 19 surgery, but were told you must be on replacement or higher  
 20 estrogen for at least one year before surgery can even be  
 21 considered."  
 22 Correct?  
 23 A Yes.  
 24 Q Who's the referenced medical personnel who wrote  
 25 that?

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1 A It should be K. Long, the practice manager.  
 2 Q Did somebody at UTMB review this before it went  
 3 back to K. Long, practice manager?  
 4 A Not that I know of.  
 5 Q And there were some other steps that the  
 6 grievance investigator did in this worksheet. She  
 7 writes -- she puts a check next to Specialty Clinic Notes;  
 8 is that right?  
 9 A Yes.  
 10 Q She provided written records required to offer  
 11 proof of provision of services; is that right?  
 12 A Yes.  
 13 Q She provided signed statements from medical,  
 14 dental, mental health staff who are specifically named in  
 15 the grievance?  
 16 A Yes.  
 17 Q She put a check mark next to individual medical,  
 18 dental, mental health discipline manager, designee findings  
 19 and recommendations?  
 20 A Yes.  
 21 Q Right?  
 22 A Yes.  
 23 Q And she signed and forwarded all compiled health  
 24 services documentation and statements to grievance  
 25 investigator, correct?

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1 A Yes.  
 2 Q And after doing all that, the answer was you have  
 3 to be on hormones for at least one year before surgery can  
 4 be considered, correct?  
 5 A Yes.  
 6 Q And at that point, surgery -- could surgery have  
 7 been considered?  
 8 A Yes.  
 9 Q Okay. And who would have done that considering  
 10 of surgery?  
 11 MR. CALB: Objection as to the scope of this  
 12 deposition topic. This is about the grievance responses,  
 13 not about, you know, who would make decisions later on.  
 14 MR. FACTOR: It's responsive to the topics.  
 15 Particularly, the allegations in the complaint and  
 16 defendants' responses.  
 17 THE WITNESS: The UT Medical Branch out of  
 18 Galveston would make the decision on any type of surgery  
 19 that is needed. And they would let us know if that surgery  
 20 was done or not.  
 21 Q (BY MR. FACTOR) And at that point, surgery was a  
 22 possibility for Haverkamp; is that right?  
 23 A Yes, sir.  
 24 Q And who at TDCJ would be involved with that  
 25 decision about considering surgery?

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1 A It would be, that I know of, a discussion with  
 2 Dr. Owen Murray and the UTMB medical staff down in  
 3 Galveston. And, of course, they do communicate with  
 4 Dr. Linthicum, that's the director over Health Services.  
 5 Q Okay. And it's obviously been more than one year  
 6 since the denial of this grievance in December 2015. Has  
 7 Haverkamp been considered for surgery?  
 8 A Not that I'm aware of, no, sir.  
 9 Q Okay. So that was the Step 1 grievance. Then  
 10 Haverkamp files a Step 2 grievance on January 11th, 2015.  
 11 Is that this grievance we're looking at  
 12 Haverkamp 001?  
 13 A Yes, sir.  
 14 Q And the substance of the grievance, the Step 2  
 15 grievance is similar. And Haverkamp's saying I want a  
 16 letter saying I will be approved for gender reassignment  
 17 surgery, period. Dated January 5th, 2015, right?  
 18 A Yes.  
 19 Q Okay. And what steps were taken to review this  
 20 grievance?  
 21 A It would be a very similar process. Those Step 2  
 22 grievances go through the grievance department. And the  
 23 grievance supervisor would, in this case, code it as a  
 24 medical grievance and then would send it to outside the  
 25 facility. Just like the regular grievance, it's not done

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1 within the facility.

2 And then we have -- within TDCJ Health Services

3 Division, we have an office that we called -- a department

4 that reviews medical grievances -- professional standards

5 for those grievances that are medical related.

6 Q Okay. So this has two more layers of

7 fact-finding and investigation. That's the medical

8 department, again, and then TDCJ's office of professional

9 standards; is that right?

10 A Yes, sir.

11 Q And this grievance response says basically the

12 same thing. "A review of the Step 1 medical grievance has

13 been completed regarding your complaint on 10/17/2014. The

14 Hospital Galveston provider told you, you had to be on

15 hormones for a year before you would be considered for

16 gender reassignment. Your complaint of denial as well as a

17 request for gender reassignment surgery and a treatment

18 plan that shows what takes place and when was also

19 reviewed."

20 Is that what this first paragraph of the

21 grievance response says?

22 A Yes.

23 Q And then the second paragraph references CMHC

24 Policy G-51.11, right?

25 A Yes.

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1 Q And they tell Haverkamp that "Your requested

2 remedy is not available through the Offender Grievance

3 Program," right?

4 A Oh, yes. Yes, sir.

5 Q So after all those layers of investigation,

6 nobody in any of the medical departments or any of the

7 other department reviews you looked at disputes that

8 Haverkamp was told that he needed to be on hormones for one

9 year before he could be considered for -- be considered for

10 surgery, correct?

11 A Correct.

12 Q In fact, they wrote it in their grievance

13 responses that you have to be on hormones for a year before

14 you could be considered for surgery, correct?

15 A Correct.

16 Q And at that point, Haverkamp could have been

17 considered for surgery; is that right?

18 A He could have been.

19 Q So I guess my question is, why hasn't Haverkamp

20 been considered for surgery?

21 MR. CALB: Objection. That's a medical

22 question. Dr. Penn can talk about that.

23 Q (BY MR. FACTOR) You can say you don't know.

24 A I do not know.

25 Q Dr. Penn might have an answer to that?

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1 A I would refer that back to the Health Services

2 department or UTMB.

3 Q But after all these layers of grievance reviews,

4 Step 1, Step 2, medical department review, administrative

5 review, unit review, nobody disputes that Haverkamp was

6 told that he could receive surgery after being on hormones

7 for a year, right?

8 MR. CALB: Objection. Misstates the

9 responses. He would be considered for surgery. That's

10 very different.

11 Q (BY MR. FACTOR) Okay. After four layers of

12 review, including by two levels of medical review, the

13 grievance investigator, the grievance administration and

14 professional department, again, the medical review, no one

15 disputed that Haverkamp was told that he could be

16 considered for surgery after being on hormones for more

17 than a year, correct?

18 A That's correct.

19 Q And after all these layers of review, that's what

20 they wrote in the grievance response. You have to be on

21 surgery -- on -- let me restate.

22 That's what the response to the grievance states,

23 you were told you have to be on hormones for more than a

24 year before you can be considered for surgery, correct?

25 A Correct.

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1 Q And this is the grievance investigation worksheet

2 for the Step 2 grievance.

3 Did you review this in your preparation for

4 today?

5 A Yes.

6 Q Who is Joy Matchett?

7 A It says there Administrative Assistant IV. And I

8 don't know the person personally.

9 Q Who is Dale Dorman, RN?

10 A Registered Nurse within the TDCJ Health Services

11 Division.

12 Q And so Matchett and Dorman were responsible and

13 did some fact-finding to respond to grievance --

14 Haverkamp's Step 2 grievance, correct?

15 A Correct.

16 Q And in the investigation worksheet -- and this

17 investigation worksheet, in general, what's the purpose of

18 this confidential Grievance Investigation Worksheet?

19 A Can you ask that one more time.

20 Q What is the purpose of this Grievance

21 Investigation Worksheet?

22 A To write down information in reference to the

23 grievance itself and what they were able to determine from

24 their investigation to provide a response to Inmate

25 Haverkamp.

<p style="text-align: right;">Page 53</p> <p>1 Q And this Summary of Fact-Finding Activity</p> <p>2 section, that is not provided to the inmate, correct?</p> <p>3 A Not that I'm aware of. I don't -- I don't</p> <p>4 believe so.</p> <p>5 Q And in the Summary of Fact-Finding Activity that</p> <p>6 Haverkamp was not provided, the investigator writes: "You</p> <p>7 inquired about surgery then, but were told you must be on</p> <p>8 replacement or higher estrogen for at least one year before</p> <p>9 surgery can even be considered," correct?</p> <p>10 A Correct.</p> <p>11 Q And there's some additional fact-finding, which</p> <p>12 is education on CMCH Policy G-51.11.</p> <p>13 What was that additional education on</p> <p>14 Policy G-51.11 referenced here?</p> <p>15 A I am not sure what they provided, if anything.</p> <p>16 Q There's a mention of "reference the offender</p> <p>17 handbook."</p> <p>18 What in the offender handbook provided insight</p> <p>19 about this grievance?</p> <p>20 A The handbook should just advise the -- if an</p> <p>21 inmate is in transgender status, that they'll be housed</p> <p>22 within the same custody. The Offender Orientation handbook</p> <p>23 may discuss intake processing that they would have the</p> <p>24 ability to identify themselves if they're transgender or</p> <p>25 not, part of our Safe Prisons portion. That's all that I</p>	<p style="text-align: right;">Page 55</p> <p>1 Q Okay. Were any of -- were all of those</p> <p>2 grievances denied?</p> <p>3 A Yes.</p> <p>4 Q And did all those grievances go through similar</p> <p>5 fact-finding processes at Level 1 and Level 2 with multiple</p> <p>6 levels of investigation?</p> <p>7 A Yes, sir. They should have been.</p> <p>8 Q So this denial of Haverkamp's Step 2 grievance</p> <p>9 references G-51.11. What's your understanding of the basis</p> <p>10 for TDCJ's denial of this Step 2 grievance?</p> <p>11 A I'm not sure. That would have to be referred</p> <p>12 over to medical. I'm not sure why it was denied.</p> <p>13 Q Okay. You've been designated today to testify</p> <p>14 about TDCJ's review of and responses to Haverkamp's</p> <p>15 grievances. I'm asking what the basis for this denial is.</p> <p>16 A The -- the CMHC policy does not prohibit the</p> <p>17 surgery to happen.</p> <p>18 Q So what's the basis for the denial?</p> <p>19 A I have not discussed that with medical. I'm not</p> <p>20 sure. I would have to refer that to the medical staff.</p> <p>21 Q You don't know the basis of the denial of the</p> <p>22 Step 2 grievance?</p> <p>23 A No, sir.</p> <p>24 Q No, you don't know?</p> <p>25 A I do not know.</p>
<p style="text-align: right;">Page 54</p> <p>1 can recall that's the -- in the Offender Orientation</p> <p>2 handbook.</p> <p>3 Q So when TDCJ reviewed this grievance, they talked</p> <p>4 to somebody at medical who confirmed what's written in the</p> <p>5 grievance response, right?</p> <p>6 A I would assume so, yes, sir.</p> <p>7 Q And confirmed that Haverkamp inquired about</p> <p>8 surgery, "but were told he must be on replacement estrogen</p> <p>9 for at least one year before surgery can even be</p> <p>10 considered," correct?</p> <p>11 A Correct.</p> <p>12 Q And they denied this grievance, right?</p> <p>13 A Yes.</p> <p>14 Q Are there any -- I know there are some grievances</p> <p>15 about the provision of bras. Did you review those?</p> <p>16 A Yes.</p> <p>17 Q Other than the provision of bras -- the</p> <p>18 grievances about the provision of bras, are you aware of</p> <p>19 any other grievances relating to sex reassignment surgery?</p> <p>20 A On Inmate Haverkamp's case?</p> <p>21 Q Yes.</p> <p>22 A I believe he filed multiple grievances about sex</p> <p>23 reassignments. I'm not sure how many.</p> <p>24 Q More than just these two?</p> <p>25 A I believe so, yes, sir.</p>	<p style="text-align: right;">Page 56</p> <p>1 Q Is the basis for the denial of any of Haverkamp's</p> <p>2 grievances the fact that Policy G-51.11 does not allow for</p> <p>3 sex reassignment surgery as a treatment?</p> <p>4 A It does not prohibit for that to happen.</p> <p>5 Q Okay. So why do these grievances cite</p> <p>6 Policy G-51.11, if surgery is allowed?</p> <p>7 A I am not sure why it was denied.</p> <p>8 Q It's the only policy listed in the grievance</p> <p>9 denial response, right?</p> <p>10 A Yes, sir.</p> <p>11 Q Are you aware of any sex reassignment surgery</p> <p>12 taking place since you've been at TDCJ?</p> <p>13 A No, sir. I do not recall one surgery taking</p> <p>14 place.</p> <p>15 Q Are you -- strike that.</p> <p>16 Does Policy G-51.11 allow for sex reassignment</p> <p>17 surgery as a treatment for gender dysphoria?</p> <p>18 A It doesn't prohibit. It doesn't specifically say</p> <p>19 it's allowed. It doesn't prohibit.</p> <p>20 Q Yeah, my question is different.</p> <p>21 Does Policy G-51.11 allow for surgery for sex --</p> <p>22 for sex reassignment surgery as a treatment for gender</p> <p>23 dysphoria?</p> <p>24 MR. CALB: Objection. Asked and answered.</p> <p>25 His last answer was sufficient.</p>

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<p>1 Q (BY MR. FACTOR) You can answer.</p> <p>2 A The policy does not prohibit for the surgery to</p> <p>3 happen.</p> <p>4 Q Okay. My question is, does the policy allow it</p> <p>5 to happen?</p> <p>6 A I don't believe it says it allows or denies for</p> <p>7 the surgery to happen.</p> <p>8 Q So the policy is ambiguous?</p> <p>9 A It doesn't say. It doesn't clarify.</p> <p>10 Q And as far as you know, there's been no sex</p> <p>11 reassignment surgery as long as Policy G-51.11 has been in</p> <p>12 place?</p> <p>13 A That's correct.</p> <p>14 Q Let's move to Topic 3, which is the --</p> <p>15 MR. CALB: Do you mind if we take a quick</p> <p>16 break first? It's been about an hour and a half. Maybe a</p> <p>17 quick bathroom break, five minutes.</p> <p>18 MR. FACTOR: Yeah, let's go off the record.</p> <p>19 MR. CALB: All right.</p> <p>20 (A break was taken from 3:31 p.m. to 3:52 p.m.)</p> <p>21 THE REPORTER: Back on the record.</p> <p>22 Q (BY MR. FACTOR) Mr. Guerrero, you understand</p> <p>23 you're still under oath?</p> <p>24 A Yes, sir.</p> <p>25 Q You've been designated to testify on behalf of</p>	<p>1 In general, you understand that Haverkamp asserts</p> <p>2 a constitutional claim based on TDCJ and UTMB's denial of</p> <p>3 sex reassignment surgery as a treatment for gender</p> <p>4 dysphoria, correct?</p> <p>5 A Is it in that specific report there? The</p> <p>6 constitutional --</p> <p>7 Q It is. I'll point you to Paragraph 2 that</p> <p>8 alleges "Haverkamp's constitutional rights have been and</p> <p>9 continue to be violated by Defendants' continued and</p> <p>10 consistent deliberate violation of her rights to equal</p> <p>11 protection under the Fourteenth Amendment to the United</p> <p>12 States Constitution."</p> <p>13 A Yes.</p> <p>14 Q Do you see that?</p> <p>15 A Yes.</p> <p>16 Q And I'm going to ask about a few different</p> <p>17 allegations in this complaint.</p> <p>18 I'm going to start with Paragraph 44. And this</p> <p>19 says, "Due to the natural progression of the prescribed</p> <p>20 treatment provided to plaintiff by defendants, plaintiff is</p> <p>21 similarly situated to cisgendered female who requires</p> <p>22 vaginoplasty surgery."</p> <p>23 Do you see that?</p> <p>24 A Yes.</p> <p>25 Q Defendants have denied that Haverkamp is</p>
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<p>1 TDCJ with respect to Topic 3, which is, "The allegations in</p> <p>2 Plaintiff's complaint and all issues identified in</p> <p>3 Defendants' answers"; is that right?</p> <p>4 A Yes.</p> <p>5 Q What materials did you review to prepare for this</p> <p>6 topic?</p> <p>7 A Again, just the -- part of the Safe Prisons</p> <p>8 Procedures manual, some of the unit classification</p> <p>9 procedures, some of our policies on laundry services, and,</p> <p>10 of course, the grievances that were provided on his -- what</p> <p>11 he submitted.</p> <p>12 Q Did you review the complaint?</p> <p>13 A Yes, I did.</p> <p>14 Q Did you review Defendant Linthicum's answer to</p> <p>15 the complaint?</p> <p>16 A I would have to read it, if you have it with you.</p> <p>17 I --</p> <p>18 Q You're not sure?</p> <p>19 A Not sure.</p> <p>20 Q Okay. I'm going to share what I'll mark as</p> <p>21 Exhibit 12.</p> <p>22 (Exhibit No. 12 marked for identification.)</p> <p>23 Q (BY MR. FACTOR) And this is plaintiff's Second</p> <p>24 Amended Complaint filed in this matter. And I'm sharing on</p> <p>25 the screen the Complaint with you.</p>	<p>1 similarly situated to a cisgender female. Do you</p> <p>2 understand that?</p> <p>3 A I see that's what's written in there, that he is</p> <p>4 cisgender female, yes.</p> <p>5 Q Okay. And do you agree that because of the</p> <p>6 hormones that Haverkamp has received, that Haverkamp has</p> <p>7 been chemically castrated? Do you agree with that?</p> <p>8 MR. CALB: Objection. That's a medical -- I</p> <p>9 don't know what medical -- what terms -- that is a medical</p> <p>10 term, but it seems like a medical determination that you're</p> <p>11 asking him about.</p> <p>12 THE WITNESS: Yeah. I do not know.</p> <p>13 Q (BY MR. FACTOR) Okay. I'm going to look at</p> <p>14 Paragraph 51. And it's the second sentence that says,</p> <p>15 "Although Policy G-51.11 is silent as to gender</p> <p>16 reassignment surgery, the committee and the TDCJ enforce</p> <p>17 the policy in a manner that gender reassignment surgery is</p> <p>18 never allowed."</p> <p>19 Do you see that allegation in the complaint?</p> <p>20 A Yes.</p> <p>21 Q And do you agree that TDCJ enforces</p> <p>22 Policy G-51.11 in a manner such that gender reassignment</p> <p>23 surgery is never allowed?</p> <p>24 A Can you ask that question one more time.</p> <p>25 Q Yeah.</p>

<p style="text-align: right;">Page 61</p> <p>1 MR. FACTOR: Ms. Court Reporter, could you</p> <p>2 read it back.</p> <p>3 (WHEREUPON, the court reporter read back the</p> <p>4 question).</p> <p>5 THE WITNESS: That is written in the</p> <p>6 Complaint. I would -- it has not been approved. I'm not</p> <p>7 saying that it was -- it hasn't been allowed.</p> <p>8 Q (BY MR. FACTOR) I'm not sure I understand that</p> <p>9 response.</p> <p>10 Do you agree that TDCJ enforces the policy in a</p> <p>11 manner such that -- such that gender reassignment surgery</p> <p>12 is never allowed?</p> <p>13 A The policy does not prohibit from the -- for a</p> <p>14 gender reassignment surgery.</p> <p>15 Q That is an answer to a question.</p> <p>16 My question is whether TDCJ enforces the policy</p> <p>17 in a way such that surgery is never allowed?</p> <p>18 A I don't think so. I think they would allow it if</p> <p>19 they thought necessary.</p> <p>20 Q So your testimony is that TDCJ enforces</p> <p>21 Policy G-51.11 that allows for sex reassignment surgery; is</p> <p>22 that right?</p> <p>23 A I think TDCJ Health Services would enforce the</p> <p>24 policy that's written. That's more of a medical question.</p> <p>25 I would defer to them. But TDCJ, we would enforce whatever</p>	<p style="text-align: right;">Page 63</p> <p>1 cosmetics, and other hygiene items."</p> <p>2 Do you see that allegation?</p> <p>3 A Yes.</p> <p>4 Q And do you agree that Haverkamp has not been</p> <p>5 provided a long-hair pass, panties, or other hygiene items?</p> <p>6 A When this was submitted, long hair was not</p> <p>7 allowed for the male population. It is now. But we do not</p> <p>8 provide panties or cosmetics or hygiene to the male</p> <p>9 population.</p> <p>10 Q Okay. So let's break that down.</p> <p>11 So Haverkamp has been given a long-hair pass; is</p> <p>12 that right?</p> <p>13 A I am not sure.</p> <p>14 Q Okay. Has Haverkamp been given panties?</p> <p>15 A No.</p> <p>16 Q Okay. Has Haverkamp been given cosmetics?</p> <p>17 A No.</p> <p>18 Q Has Haverkamp been given other hygiene items?</p> <p>19 MR. CALB: Objection. Ambiguous.</p> <p>20 THE WITNESS: Not that I'm aware of.</p> <p>21 Q (BY MR. FACTOR) I'm going to share what I'll</p> <p>22 mark as Exhibit 13.</p> <p>23 (Exhibit No. 13 marked for identification.)</p> <p>24 Q (BY MR. FACTOR) And this is Lannette Linthicum's</p> <p>25 answer to Haverkamp's complaint. Do you recognize this</p>
<p style="text-align: right;">Page 62</p> <p>1 is provided to us from Health Services or UTMB.</p> <p>2 Q I think my question's little bit different.</p> <p>3 I'm asking if TDCJ enforces this policy in a way</p> <p>4 that allows inmates to receive sex reassignment surgery.</p> <p>5 Yes or no?</p> <p>6 MR. CALB: Objection. Asked and answered.</p> <p>7 You can answer.</p> <p>8 Q (BY MR. FACTOR) You can answer.</p> <p>9 A I believe TDCJ enforces the policies, and it</p> <p>10 could or could not allow the surgery. Doesn't, again,</p> <p>11 prohibit from it to happen.</p> <p>12 Q So you said "could or could not allow the</p> <p>13 surgery." Which one is it? Is it could allow or could not</p> <p>14 allow?</p> <p>15 A I'm not an expert in medical. I know it'd be</p> <p>16 deferred to them. Depending, I would assume, on the</p> <p>17 condition of the individual, it could or could not be</p> <p>18 allowed. Again, I'm not a medical expert.</p> <p>19 Q You don't know how TDCJ enforces this policy one</p> <p>20 way or another?</p> <p>21 A Not the TDCJ Health Services or UTMB, no, sir.</p> <p>22 Q And there's another claim that "Defendants</p> <p>23 continue to deny Haverkamp necessities and commissary items</p> <p>24 that are available to similarly situated female inmates,</p> <p>25 including a long-hair pass, panties, appropriate clothing,</p>	<p style="text-align: right;">Page 64</p> <p>1 document?</p> <p>2 A Yes.</p> <p>3 Q And Dr. Linthicum is the defendant who represents</p> <p>4 TDCJ in this lawsuit. Do you understand that?</p> <p>5 A Yes.</p> <p>6 Q Were you involved in preparing the answer to this</p> <p>7 Complaint?</p> <p>8 A No, sir. Not that I'm aware of.</p> <p>9 Q You weren't involved in preparing this document?</p> <p>10 A No, sir.</p> <p>11 Q And you've reviewed this document before today?</p> <p>12 A Yes.</p> <p>13 Q This is Paragraph 3 of Defendant Linthicum's</p> <p>14 answer. It says, "Defendant denies that she violated</p> <p>15 Haverkamp's rights to equal protection under the Fourteenth</p> <p>16 Amendment" and denies that Haverkamp is similarly situated</p> <p>17 to cisgendered females.</p> <p>18 Do you see that?</p> <p>19 A Yes.</p> <p>20 Q What's the basis for the denial that Haverkamp is</p> <p>21 similarly situated to cisgendered females?</p> <p>22 A I could not answer for Dr. L.</p> <p>23 Q You don't know the basis for this denial in this</p> <p>24 answer?</p> <p>25 A No, sir.</p>

<p style="text-align: right;">Page 65</p> <p>1 Q And what's the basis for the denial that</p> <p>2 Defendant Linthicum has violated Haverkamp's equal</p> <p>3 protection rights?</p> <p>4 MR. CALB: Objection. That's a legal</p> <p>5 question.</p> <p>6 Q (BY MR. FACTOR) To the extent you know.</p> <p>7 A I do not know why she states she does not -- she</p> <p>8 has not denied his -- his equal protection rights.</p> <p>9 Q Did you speak with Dr. Linthicum about this</p> <p>10 answer?</p> <p>11 A I did not.</p> <p>12 Q Okay. Paragraph 18. "Defendant denies that</p> <p>13 Haverkamp has been denied any necessary medical treatment."</p> <p>14 What is the basis for this statement in</p> <p>15 Linthicum's answer that Haverkamp has not been -- sorry,</p> <p>16 strike that.</p> <p>17 What is the basis for this Paragraph 18 of</p> <p>18 Defendant Linthicum's answer?</p> <p>19 A I have not talked to Dr. Linthicum, so I'm not</p> <p>20 sure why she would provide that statement.</p> <p>21 Q Okay. You don't know sitting here today as the</p> <p>22 designated representative of TDCJ?</p> <p>23 A I don't know -- I do not know why she stated that</p> <p>24 in her response.</p> <p>25 Q You do not know the basis of Paragraph 18 of this</p>	<p style="text-align: right;">Page 67</p> <p>1 A That's correct. I do not.</p> <p>2 Q And it's repeated again. "Defendant denies that</p> <p>3 there is any recognized consensus concerning the treatment</p> <p>4 of gender dysphoria as alleged in Paragraph 26."</p> <p>5 You, as the designated representative of TDCJ, do</p> <p>6 not know the basis for this sentence and the answer,</p> <p>7 correct?</p> <p>8 A Correct.</p> <p>9 Q It's repeated again. "Defendant denies there is</p> <p>10 any recognized consensus concerning the treatment of gender</p> <p>11 dysphoria."</p> <p>12 You do not know the basis for this sentence in</p> <p>13 Paragraph 27 of Defendant Linthicum's answer; is that</p> <p>14 right?</p> <p>15 A That's correct.</p> <p>16 Q When was the long-hair policy changed?</p> <p>17 A In 2022.</p> <p>18 Q Do you know what month?</p> <p>19 A I believe it was June.</p> <p>20 Q Okay. Well, as of the date this answer was</p> <p>21 filed, "Defendant admits that she has not provided</p> <p>22 Haverkamp with a long-hair pass, panties, or cosmetics" as</p> <p>23 of July 11th, 2022; is that correct?</p> <p>24 A Long-hair passes are not needed according to the</p> <p>25 new policy.</p>
<p style="text-align: right;">Page 66</p> <p>1 answer on behalf of TDCJ; is that right?</p> <p>2 A Correct.</p> <p>3 Q Paragraph 24 states, "Defendant admits that WPATH</p> <p>4 purports to publish standards of care and maintain that</p> <p>5 this publication speaks for itself."</p> <p>6 Do you see that first sentence of Paragraph 24?</p> <p>7 A Yes.</p> <p>8 Q The second sentence of Paragraph 24 says,</p> <p>9 "Defendant denies that there is any recognized consensus</p> <p>10 concerning the treatment of gender dysphoria as alleged..."</p> <p>11 What is the basis for TDC's -- -CJ's position</p> <p>12 that there is not any recognized consensus concerning the</p> <p>13 treatment of gender dysphoria?</p> <p>14 A My expertise is not in medical. I would not know</p> <p>15 why they would put that in the report.</p> <p>16 Q As the designated representative for TDCJ with</p> <p>17 respect to Topic 3, which is -- includes "all issues</p> <p>18 identified in Defendants' answers," as it relates to TDCJ,</p> <p>19 you do not know the basis of the statement and the answer</p> <p>20 that defendant "denies there is any recognized consensus</p> <p>21 concerning the treatment of gender dysphoria as alleged" in</p> <p>22 Paragraph 24, correct?</p> <p>23 A Correct.</p> <p>24 Q "Correct" that you don't know the basis for this</p> <p>25 sentence?</p>	<p style="text-align: right;">Page 68</p> <p>1 Q Okay. As of July 11th, 2022, Defendant had not</p> <p>2 provided Haverkamp with panties, correct?</p> <p>3 A Correct.</p> <p>4 Q Or cosmetics, correct?</p> <p>5 A Correct.</p> <p>6 Q Still haven't provided either of those things,</p> <p>7 right?</p> <p>8 A That's correct.</p> <p>9 Q Okay. Paragraph 46. The allegation in the -- or</p> <p>10 the answer says at Paragraph 46, "Defendant denies that</p> <p>11 Haverkamp has been denied any medically-necessary</p> <p>12 treatment."</p> <p>13 What's the basis for this sentence?</p> <p>14 A I'm not sure.</p> <p>15 Q Again, as the designated representative of TDCJ,</p> <p>16 you do not know the basis for Paragraph 46 of this answer,</p> <p>17 correct?</p> <p>18 A Correct.</p> <p>19 MR. CALB: Ace, maybe I -- maybe I can</p> <p>20 clarify something. In the 30(b)(6) witness designation</p> <p>21 responses, when we said that Dr. Murray was going to answer</p> <p>22 on this topic with respect to UTMB, it should have been</p> <p>23 clearer in saying UTMB and/or TDCJ Health Services because</p> <p>24 they both coordinate healthcare. We were talking about Mr.</p> <p>25 Guerrero for anything non-medical, more generally, not just</p>

<p style="text-align: right;">Page 69</p> <p>1 non-UTMB.</p> <p>2 MR. FACTOR: I'm going to introduce what</p> <p>3 I'll mark as -- this has previously been marked as</p> <p>4 Exhibit 1.</p> <p>5 (Exhibit No. 1 marked for identification.)</p> <p>6 Q (BY MR. FACTOR) And, Mr. Guerrero, you see Topic</p> <p>7 No. 3, "The allegations in Plaintiff's complaint and all</p> <p>8 issues identified in Defendants' answers"?</p> <p>9 A Yes.</p> <p>10 Q The person designated is Eric Guerrero as it</p> <p>11 relates to TDCJ; is that correct?</p> <p>12 A Yes.</p> <p>13 Q And it doesn't say anything about medical</p> <p>14 treatment, does it?</p> <p>15 A It does not.</p> <p>16 Q It just says "TDCJ," right?</p> <p>17 A Yes.</p> <p>18 Q Going back to Exhibit -- sorry -- Exhibit 13.</p> <p>19 Paragraph 56 states, "Defendant denies that</p> <p>20 gender reassignment surgery is medically necessary."</p> <p>21 What's the basis for this sentence in this</p> <p>22 answer?</p> <p>23 A I do not know.</p> <p>24 Q As the designated representative for TDCJ, you do</p> <p>25 not know the basis for the first sentence of Paragraph 56,</p>	<p style="text-align: right;">Page 71</p> <p>1 paragraph. It says, "The defendant in her official</p> <p>2 capacity as a member of CMHCC" is a jural entity.</p> <p>3 Q (BY MR. FACTOR) Okay. What's the basis for</p> <p>4 Paragraph 61?</p> <p>5 A I do not know. I didn't talk to Dr. Linthicum.</p> <p>6 Q What's the basis for this assertion that "...any</p> <p>7 claim premised upon a disagreement with medical treatment</p> <p>8 will not support constitutional dimension under</p> <p>9 42 U.S.C. 1983"?</p> <p>10 MR. CALB: Objection.</p> <p>11 Again, that's a legal question.</p> <p>12 MR. FACTOR: I've -- I'm asking about the</p> <p>13 basis for the statements in TDCJ's answer.</p> <p>14 Q (BY MR. FACTOR) You can answer, if you know.</p> <p>15 A I do not know.</p> <p>16 Q What's the basis for the defense that plaintiff</p> <p>17 lacks standing to bring suit for the relief requested?</p> <p>18 A I'm not sure.</p> <p>19 Q What's the basis for the statement at</p> <p>20 Paragraph 66 that "Defendant denies that any actions</p> <p>21 attributable to her in their official capacities were</p> <p>22 motivated by any discriminatory intent of any kind"?</p> <p>23 A I would assume as a medical professional she</p> <p>24 would provide medical care to any individual.</p> <p>25 Q Do you know -- okay.</p>
<p style="text-align: right;">Page 70</p> <p>1 correct?</p> <p>2 A I would refer that to our medical staff.</p> <p>3 Q Sitting here today, you do not know, correct?</p> <p>4 A Correct.</p> <p>5 Q What's the basis for this statement that</p> <p>6 "Defendant denies that this Court has jurisdiction to</p> <p>7 determine the standard of care for gender dysphoria as any</p> <p>8 decision on this issue is foreclosed by Gibson v. Collier"?</p> <p>9 A I do not know.</p> <p>10 Q As the designated representative for TDCJ on all</p> <p>11 issues identified in Defendants' answer, you do not know</p> <p>12 the basis for this sentence highlighted in Paragraph 56,</p> <p>13 correct?</p> <p>14 A That's correct.</p> <p>15 Q What's the basis for Paragraph 60, TDCJ's</p> <p>16 affirmative defense that "Haverkamp has failed to state a</p> <p>17 claim under 42 U.S.C. 1983"?</p> <p>18 MR. CALB: Objection. That's a legal</p> <p>19 question.</p> <p>20 Q (BY MR. FACTOR) You can answer, if you know.</p> <p>21 A I do not know.</p> <p>22 Q What's the basis for the denial that Defendant</p> <p>23 Linthicum "...is a jural entity capable of suing or being</p> <p>24 sued"?</p> <p>25 MR. CALB: Objection. That misstates the</p>	<p style="text-align: right;">Page 72</p> <p>1 And this is a defense about that the "Eighth</p> <p>2 Amendment is the exclusive constitutional claim for suits</p> <p>3 brought by inmates claiming that they are not receiving</p> <p>4 required medical treatment and, because this claim has</p> <p>5 already been adjudicated, this suit is barred by Gibson v.</p> <p>6 Collier."</p> <p>7 What's the basis for this defense?</p> <p>8 A Not sure.</p> <p>9 Q Paragraph 68. "Defendants assert that any</p> <p>10 actions attributable to them in their official capacities</p> <p>11 were taken for valid and legitimate non-discriminatory</p> <p>12 reasons in the context of medical standards of care."</p> <p>13 What's the basis for that defense?</p> <p>14 A Again, just they would provide medical care to</p> <p>15 the staff within TDCJ custody.</p> <p>16 Q Okay. What's the basis for this defense at</p> <p>17 Paragraph 69 that "Haverkamp has failed to mitigate her</p> <p>18 damages"?</p> <p>19 A Not sure.</p> <p>20 Q Do you know anything about the Ex Parte Young</p> <p>21 exception to Eleventh Amendment immunity?</p> <p>22 A I do not.</p> <p>23 Q Paragraph 75 states that "Haverkamp has failed to</p> <p>24 exhaust his administrative remedies as required pursuant to</p> <p>25 42 U.S.C. 1997e(a)."</p>

<p style="text-align: right;">Page 73</p> <p>1 What remedies has Haverkamp failed to exhaust?</p> <p>2 A I'm not sure in reference to 42 U.S.C. 1997.</p> <p>3 Q Okay. In general, what remedies does TDCJ claim</p> <p>4 that Haverkamp has failed to exhaust?</p> <p>5 A I'm not sure.</p> <p>6 Q You don't know?</p> <p>7 A No.</p> <p>8 Q And you looked at all of Haverkamp's grievances.</p> <p>9 Were there any additional grievance policies that Haverkamp</p> <p>10 needed to follow but didn't?</p> <p>11 A Not that I can recall.</p> <p>12 Q You don't know sitting here today?</p> <p>13 A We follow the grievance procedures as -- as -- as</p> <p>14 written following Step 1 and Step 2.</p> <p>15 Q And you don't know of any other administrative</p> <p>16 remedies that Haverkamp needed to exhaust in order to file</p> <p>17 suit, right?</p> <p>18 A No, sir.</p> <p>19 Q Do you know whether TDCJ has made any</p> <p>20 determinations regarding whether sex reassignment surgery</p> <p>21 is an elective surgery?</p> <p>22 A Can you say that one more time.</p> <p>23 Q I kind of forgot what I had just said.</p> <p>24 MR. FACTOR: Could you read it back,</p> <p>25 Ms. Court Reporter.</p>	<p style="text-align: right;">Page 75</p> <p>1 A I do not know what type of treatment was</p> <p>2 provided.</p> <p>3 Q So you don't know the basis for this denial at</p> <p>4 Paragraph 11 that says Defendant denies Haverkamp was</p> <p>5 denied any necessary medical treatment, right?</p> <p>6 A That's correct, I do not.</p> <p>7 Q Moving on to Topic 5, you've been designated to</p> <p>8 testify on behalf of TDCJ regarding Topic 5, which is</p> <p>9 "Policies, procedures, protocols, memoranda, circulars,</p> <p>10 training materials, or other agency guidance relating to</p> <p>11 transgender inmates or inmates experiencing gender</p> <p>12 dysphoria"; is that right?</p> <p>13 A That's correct.</p> <p>14 Could we take one five-minute break real quick?</p> <p>15 Q Sure.</p> <p>16 THE REPORTER: We are off the record.</p> <p>17 (A break was taken from 4:27 p.m. to 4:39 p.m.)</p> <p>18 THE REPORTER: On the record.</p> <p>19 Q (BY MR. FACTOR) Let's go -- you understand</p> <p>20 you're still under oath, Mr. Guerrero?</p> <p>21 A Yes.</p> <p>22 Q Let's move to Topic 16, which is "All unit</p> <p>23 transfers of Plaintiff and TDCJ's review and responses to</p> <p>24 any transfer requests."</p> <p>25 Are you prepared to testify about that topic</p>
<p style="text-align: right;">Page 74</p> <p>1 THE REPORTER: Yes.</p> <p>2 (WHEREUPON, the court reporter read back the</p> <p>3 question).</p> <p>4 THE WITNESS: I would refer that to UTMB</p> <p>5 Medical Branch, our university partners.</p> <p>6 Q (BY MR. FACTOR) But as the representative of</p> <p>7 TDCJ, you don't know whether TDCJ has made any</p> <p>8 determinations that sex reassignment surgery is elective</p> <p>9 surgery?</p> <p>10 A We're not saying that it's prohibited. We --</p> <p>11 that's -- that's something that we will refer to our</p> <p>12 medical partners.</p> <p>13 Q Yeah. My -- my question is whether TDCJ has made</p> <p>14 any determination that sex reassignment surgery is elective</p> <p>15 surgery.</p> <p>16 A Not that I'm aware of.</p> <p>17 Q And I'm going back to Exhibit 13. And I just</p> <p>18 want to confirm that, sitting here today, you do not know</p> <p>19 the basis for this highlighted sentence that says,</p> <p>20 "Defendant denies that Haverkamp was denied any necessary</p> <p>21 medical treatment"; is that right?</p> <p>22 A I would have to refer that to medical. I'm not</p> <p>23 sure what medical treatment was provided or was not</p> <p>24 provided.</p> <p>25 Q You don't know sitting here today?</p>	<p style="text-align: right;">Page 76</p> <p>1 today?</p> <p>2 A Yes.</p> <p>3 Q Since at least 2019, Haverkamp was housed in the</p> <p>4 Stiles Unit in Beaumont, correct?</p> <p>5 A Correct.</p> <p>6 Q Haverkamp's deposition in this matter was</p> <p>7 initially scheduled to take place on February 21st, 2023,</p> <p>8 at the Stiles Unit, correct?</p> <p>9 A Yes.</p> <p>10 Q And after Haverkamp had lived at the Stiles Unit</p> <p>11 for many years, Haverkamp was transferred to the Connally</p> <p>12 Unit on February 20th, 2023; is that correct?</p> <p>13 A That sounds about right, the date.</p> <p>14 Q Like, one day before his deposition?</p> <p>15 A I believe so, yes, sir.</p> <p>16 Q And the Connally Unit is about 200 miles away</p> <p>17 from the Stiles Unit, right?</p> <p>18 A Approximately, yes, sir.</p> <p>19 Q Was Haverkamp's transfer the day before his</p> <p>20 scheduled deposition have anything to do with this lawsuit?</p> <p>21 A No, sir.</p> <p>22 Q What were the circumstances that resulted in</p> <p>23 Haverkamp's unit transfer the day before his scheduled</p> <p>24 deposition?</p> <p>25 A We were moving several inmates from the Stiles</p>

<p style="text-align: right;">Page 77</p> <p>1 Unit. I can't remember approximately how many were moved.</p> <p>2 I believe it was over 100 inmates was removed from Stiles</p> <p>3 over to Connally to redesignate the population at the</p> <p>4 Stiles Unit.</p> <p>5 And we just looked at individuals in the housing,</p> <p>6 just -- didn't look at names. We just transferred them</p> <p>7 from the Stiles to Connally.</p> <p>8 Q And why the timing, February 20th, 2023? What</p> <p>9 were the circumstances behind that day?</p> <p>10 A There was a discussion prior to that to move</p> <p>11 inmates from one facility to another, specifically Stiles</p> <p>12 to Connally. We have to coordinate with our inmate</p> <p>13 transportation department to see when they have staff and</p> <p>14 buses available. And when that discussion came about,</p> <p>15 about moving inmates from Stiles to Connally, that was the</p> <p>16 available date.</p> <p>17 Q Okay. And on April 5th, 2023, Haverkamp</p> <p>18 requested a unit transfer from the Connally Unit to the</p> <p>19 Hughes Unit; is that right?</p> <p>20 A I don't remember that request.</p> <p>21 Q Are you aware of any unit transfer requests from</p> <p>22 Haverkamp?</p> <p>23 A Not that I can remember. No, I -- no, I think I</p> <p>24 was -- yes, I think there was a request. I'm not sure</p> <p>25 exactly how that request was submitted.</p>	<p style="text-align: right;">Page 79</p> <p>1 Q (BY MR. FACTOR) What was your decision on</p> <p>2 Haverkamp's unit transfer request?</p> <p>3 A My decision was he was appropriately housed.</p> <p>4 Q In the Connally Unit?</p> <p>5 A At the Connally Unit where he was at.</p> <p>6 Q And did you ever approve a request from Haverkamp</p> <p>7 to be transferred to the Hughes Unit?</p> <p>8 A I don't -- I did not approve a request. He was</p> <p>9 just appropriately housed at Connally.</p> <p>10 Q Well, did you ever agree with a recommendation to</p> <p>11 move Haverkamp to the Hughes Unit?</p> <p>12 A No.</p> <p>13 Q Did you ever consider that request?</p> <p>14 A When requests are submitted, I review to see if</p> <p>15 they're appropriately housed.</p> <p>16 Q So what's your understanding for the basis of the</p> <p>17 denial of Haverkamp's unit transfer request to the Hughes</p> <p>18 Unit?</p> <p>19 A That he meets the requirement as his custody. We</p> <p>20 have that type of custody and those type of inmates at the</p> <p>21 Connally Unit.</p> <p>22 Q And did you ever tell anybody that Haverkamp had</p> <p>23 been approved to move to the Hughes Unit?</p> <p>24 A That he was approved to move to the Hughes Unit?</p> <p>25 No, sir.</p>
<p style="text-align: right;">Page 78</p> <p>1 Q I submitted the request through counsel,</p> <p>2 Mr. Garcia --</p> <p>3 A Okay.</p> <p>4 Q -- on behalf of Haverkamp.</p> <p>5 Does that refresh your recollection?</p> <p>6 A Yes.</p> <p>7 Q And what was your involvement with reviewing</p> <p>8 Haverkamp's transfer request?</p> <p>9 A The only thing I could remember at the time was</p> <p>10 that he was appropriately housed at the Connally Unit.</p> <p>11 Q Okay. Did you review the unit transfer request?</p> <p>12 A I don't remember if it was an official document</p> <p>13 from Mr. Garcia or if it was verbal. I can't remember how</p> <p>14 the request was brought to my attention.</p> <p>15 Q It may have been an e-mail from me to Mr. Garcia.</p> <p>16 But you remember receiving some documentation or</p> <p>17 a phone call about a unit transfer request, right?</p> <p>18 A I do remember something, yes.</p> <p>19 Q Did you approve Haverkamp's transfer request to</p> <p>20 go to the Hughes Unit?</p> <p>21 A I believe when I talked to Mr. Garcia, I</p> <p>22 mentioned that he was appropriately assigned to --</p> <p>23 MR. CALB: I'm going to object.</p> <p>24 Your discussions with Mr. Garcia were</p> <p>25 privileged. Please don't discuss them.</p>	<p style="text-align: right;">Page 80</p> <p>1 Q You never told anybody that Haverkamp could move</p> <p>2 to the Hughes Unit?</p> <p>3 A That he could move to the unit.</p> <p>4 Q Did you ever -- I'm not trying to be tricky here.</p> <p>5 Did you ever agree that Haverkamp would be</p> <p>6 allowed to move to the Hughes Unit?</p> <p>7 A Well, the Hughes Unit is a facility that we do</p> <p>8 have all custodies and have transgender and safekeeping.</p> <p>9 That's the same case at the Connally Unit where he was</p> <p>10 housed and where he's currently housed.</p> <p>11 Q And did you discuss with anyone that Haverkamp</p> <p>12 would be allowed to move to the Hughes Unit?</p> <p>13 A His -- his custody would allow him to be moved to</p> <p>14 the Hughes Unit.</p> <p>15 Q Well, I was told that a unit transfer request had</p> <p>16 been approved for the Hughes Unit. And what I'm trying to</p> <p>17 understand is what the basis for that was.</p> <p>18 A I'm not aware that his transfer was approved from</p> <p>19 Connally to Hughes.</p> <p>20 Q Okay. Well, what's the basis for, you know, the</p> <p>21 representation by Mr. Garcia to me that the unit transfer</p> <p>22 request had been approved?</p> <p>23 A Can you ask that one more time.</p> <p>24 Q Yeah.</p> <p>25 MR. FACTOR: Ms. McDaniel, could you read it</p>

<p style="text-align: right;">Page 81</p> <p>1 for me.</p> <p>2 (WHEREUPON, the court reporter read back the</p> <p>3 question).</p> <p>4 THE WITNESS: Yeah, the basis would be the</p> <p>5 security -- custody con- -- and control and custody of</p> <p>6 the -- of Inmate Haverkamp. He -- he could be assigned to</p> <p>7 the Hughes Unit. But, again, there was not a approval that</p> <p>8 was -- that I know of was provided saying he should be</p> <p>9 moved from Connally over to the Hughes facility.</p> <p>10 Q (BY MR. FACTOR) Who made the final decision on</p> <p>11 that unit transfer request?</p> <p>12 A That was a discussion that was brought to me</p> <p>13 about he was appropriately housed at Connally.</p> <p>14 Q Okay. Who made the decision that he was</p> <p>15 appropriately housed at Connally in that discussion you</p> <p>16 just referenced?</p> <p>17 A I did.</p> <p>18 Q Well, who brought it to you?</p> <p>19 A I believe it was Mr. Garcia.</p> <p>20 Q So you made the final decision that the unit</p> <p>21 transfer request would be denied, right?</p> <p>22 A I made the decision upon reviewing his custody</p> <p>23 and the type of inmates we have at the Connally Unit was</p> <p>24 appropriate for him to stay at.</p> <p>25 Q And who had the final decision? Was that -- who</p>	<p style="text-align: right;">Page 83</p> <p>1 Q Haverkamp is classified as a G2 safekeeping</p> <p>2 inmate; is that right?</p> <p>3 A Safekeeping would be designated as P2, but</p> <p>4 it's -- it is a G2 minimum custody that we have. But</p> <p>5 safekeeping is a P2 custody.</p> <p>6 Q So Haverkamp is P2?</p> <p>7 A Yes.</p> <p>8 Q And what does that designation mean?</p> <p>9 A So we have different levels within our</p> <p>10 classification plan. G1, G2 -- it's G2 -- the number 2 is</p> <p>11 Level 2 and it goes up to 5. So Level 2, Level 3, Level 4,</p> <p>12 Level 5. Same thing with our safekeeping, it's P2 through</p> <p>13 P5. P2, P3 is our minimum custody inmates, and then P4 --</p> <p>14 P5 is -- P1 through P4 -- P3, I'm sorry, is minimum</p> <p>15 custody. P4 is medium custody, and then P5 would be our</p> <p>16 closed custody designation.</p> <p>17 Q Okay. So in the scale from 2 to 5, 2 is minimum</p> <p>18 and 5 is, you know, most threatening or worst, so to speak?</p> <p>19 A They just have a -- more of a disciplinary --</p> <p>20 recent disciplinary violation.</p> <p>21 Q Okay. And so Haverkamp is at the lowest</p> <p>22 safekeeping classification; is that right?</p> <p>23 A That's correct.</p> <p>24 Q In that Haverkamp has had few or no disciplinary</p> <p>25 violations, right?</p>
<p style="text-align: right;">Page 82</p> <p>1 else was involved with that decision?</p> <p>2 A I'm not sure if anybody else was involved in that</p> <p>3 decision.</p> <p>4 Q Just you and Mr. Garcia?</p> <p>5 A I believe so.</p> <p>6 Q So you had the final say, you weren't overruled</p> <p>7 by anyone?</p> <p>8 A No, sir.</p> <p>9 Q Has Haverkamp ever posed a security threat to</p> <p>10 other inmates?</p> <p>11 A I would have to look at his disciplinary history.</p> <p>12 Q Any that you know of sitting here today?</p> <p>13 A Not without looking at his disciplinary history.</p> <p>14 Q So you're not aware of anybody at TDCJ ever</p> <p>15 approving a unit transfer request from Haverkamp?</p> <p>16 A Not that I'm aware of.</p> <p>17 Q Informally or otherwise?</p> <p>18 A No, sir, not that I'm aware of.</p> <p>19 Q Okay. Moving on to Topic 17, "All</p> <p>20 transportation, accommodation, housing, and safekeeping</p> <p>21 classifications of Plaintiff and inmates with gender</p> <p>22 dysphoria."</p> <p>23 Are you prepared to testify about this topic</p> <p>24 today?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 84</p> <p>1 A I would have to look at his disciplinary screen</p> <p>2 to see how many disciplinary violations he has had.</p> <p>3 Q But P2 is lowest safekeeping designation there</p> <p>4 is, right?</p> <p>5 A Yes.</p> <p>6 Q I'm sharing what I'll mark as Exhibit 14.</p> <p>7 (Exhibit No. 14 marked for identification.)</p> <p>8 Q (BY MR. FACTOR) And on the screen, this is --</p> <p>9 it's an e-mail that you received. "Subject: Transgender</p> <p>10 list." And says, "FYI, please see the updated transgender</p> <p>11 report."</p> <p>12 What is the transgender report?</p> <p>13 A I believe that document just tells us how many</p> <p>14 transgenders we have on each facility.</p> <p>15 Q And what's the purpose of this transgender report</p> <p>16 or transgender list?</p> <p>17 A Just to help us know where we have transgenders</p> <p>18 located so we can ensure that the wardens and the staff on</p> <p>19 that facility is following our policies on whatever</p> <p>20 security practices and procedures for transgender inmates.</p> <p>21 Q Who all receives this report?</p> <p>22 A The three individuals there is myself and the two</p> <p>23 other deputy directors. Of course, you see also there</p> <p>24 Chris Black-Edwards. I don't know her official title, but</p> <p>25 she's a deputy director in Health Services. It looks like</p>

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<p>1 Bev -- I think it's Beverly Echols is a UTMB employee, and</p> <p>2 then when we get that list, in most cases we forward that</p> <p>3 to the regional directors and in some cases forward it to</p> <p>4 the wardens.</p> <p>5 Q And Dr. Linthicum also gets this report?</p> <p>6 A Oh, yes, sir.</p> <p>7 Q And I don't think I actually have the one</p> <p>8 attached to this e-mail, but I'm going to share a similar</p> <p>9 one that I'll mark as Exhibit 15.</p> <p>10 (Exhibit No. 15 marked for identification.)</p> <p>11 Q (BY MR. FACTOR) And the cover e-mail kind of has</p> <p>12 a summary. But does this summary accurately show that at</p> <p>13 least as of the date of this report, March 2019, there were</p> <p>14 926 transgender inmates in TDCJ population?</p> <p>15 A Yes, sir.</p> <p>16 Q And then the attachment is a -- it's a redacted</p> <p>17 spreadsheet. And what I'm curious about are all of these</p> <p>18 different levels of the description in this category that</p> <p>19 I'm looking at right here in the middle of the page.</p> <p>20 I think these are all the different</p> <p>21 classifications of transgender inmates; is that right?</p> <p>22 A I can't read the first five lines. They're real</p> <p>23 blurry --</p> <p>24 Q Yeah, I can't really either. I think they say</p> <p>25 admin seg security Detention Level 1, admin seg security</p>	<p>1 referred to.</p> <p>2 Q And what is this Management Operations</p> <p>3 Transgender List used for?</p> <p>4 A Just sharing information to -- again, to the</p> <p>5 deputy directors, the regional directors, and the wardens</p> <p>6 of how many inmates we have transgender within our custody.</p> <p>7 Q And what's it used for?</p> <p>8 MR. CALB: Objection. Asked and answered.</p> <p>9 THE WITNESS: Just another document that we</p> <p>10 have to advise us what -- what type of inmates we have</p> <p>11 within our prison system.</p> <p>12 Q (BY MR. FACTOR) Any other uses other than just</p> <p>13 to be aware of how many transgender folks there are in</p> <p>14 prison?</p> <p>15 A So we have a Safe Prison department. They may</p> <p>16 track the number of transgender we have within our custody.</p> <p>17 Q And they put together this report?</p> <p>18 A I believe so.</p> <p>19 Q What are the policies for classifying transgender</p> <p>20 inmates as between safekeeping and general population?</p> <p>21 Is there a special policy or procedure for</p> <p>22 transgender classification?</p> <p>23 A Well, the inmates have the ability to inform</p> <p>24 staff if they want to identify themselves as transgender.</p> <p>25 That could be done on the facilities that he's at to an</p>
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<p>1 Detention Level 2, admin seg security Level 3. But, yeah,</p> <p>2 it's a little blurry.</p> <p>3 A Yeah, that's -- that's all our custodies for the</p> <p>4 most part that would have transgenders in that custody.</p> <p>5 Q So what are all these classifications? This</p> <p>6 is just a summary of all the different transgender inmates</p> <p>7 and what their classifications are?</p> <p>8 A Yes, sir. It's a P2 through P7 or a safekeeping</p> <p>9 custody code we have within our prison system.</p> <p>10 Q And Haverkamp is in the safekeeping Level 2; is</p> <p>11 that right?</p> <p>12 A Yes, sir.</p> <p>13 Q And what are these codes over here, these --</p> <p>14 these ones on this side of the spreadsheet?</p> <p>15 A That's the unit code.</p> <p>16 Q Okay. And what is the Frequency?</p> <p>17 A I would think that would be the number we</p> <p>18 currently have there at that facility at that time.</p> <p>19 Q And the Percent is the percentage of unit that is</p> <p>20 transgender; is that right?</p> <p>21 A I believe that's -- that facility, DU, I believe</p> <p>22 houses a little over 1,000 inmates. So if we had 6, I'm</p> <p>23 not sure if that percentage adds up.</p> <p>24 Q Okay.</p> <p>25 A I'm not sure exactly back in 2019 what that</p>	<p>1 office or a staff member. That could be done during the</p> <p>2 intake processing with our Safe Prison staff on the</p> <p>3 facility. So different -- different ways they can inform</p> <p>4 us.</p> <p>5 If they feel that they want to be -- or consider</p> <p>6 to be transgender, that can be sent by an official -- I60</p> <p>7 in a request to official indicating they want to identify</p> <p>8 themselves as transgender.</p> <p>9 When you're talking about safekeeping, if they</p> <p>10 want to request safekeeping, that is seen by a unit</p> <p>11 classification committee. And there is a policy that looks</p> <p>12 at different things, and they have the ability to recommend</p> <p>13 placement into safekeeping status, and that is sent to our</p> <p>14 state classification committee for review.</p> <p>15 Q Okay. And what policies govern that</p> <p>16 classification process?</p> <p>17 A It's going to be a classification procedures</p> <p>18 manual.</p> <p>19 Q Maybe a unit -- TDCJ Protective Safekeeping Plan?</p> <p>20 Does that seem about right?</p> <p>21 A That's protective safekeeping. That's a</p> <p>22 different status.</p> <p>23 Q Oh, okay. There's safekeeping and then there's</p> <p>24 protective safekeeping?</p> <p>25 A Yes, sir.</p>

<p style="text-align: right;">Page 89</p> <p>1 Q What's the difference?</p> <p>2 A Protective safekeeping is a custody that -- that</p> <p>3 we feel needs to have the most protection for the</p> <p>4 individual. He is placed in a single cell. It's more of a</p> <p>5 controlled environment where he is escorted wherever he</p> <p>6 needs to go. Where the regular safekeeping is a general</p> <p>7 population status where they could be double-celled, they</p> <p>8 could go to education with other inmates, to chapel</p> <p>9 services, chow halls, and so on.</p> <p>10 Q Got it.</p> <p>11 And what about housing of transgender offenders?</p> <p>12 How does that work whenever a new transgender inmate comes</p> <p>13 into TDCJ custody?</p> <p>14 A They're housed within their custody that they are</p> <p>15 given. We do not separate transgender to a specific</p> <p>16 housing area. So if they are a G2, they will live with</p> <p>17 other G2s, not necessarily living with another transgender.</p> <p>18 You may have some transgenders in the housing area, but</p> <p>19 you're housed with other similar custody. If you're G2 or</p> <p>20 G3 or G4, you live with that group.</p> <p>21 Q Okay. So if -- I guess what policies govern</p> <p>22 whether transgender inmates are housed in male facilities</p> <p>23 or female facilities?</p> <p>24 A So the individual, when he comes into our</p> <p>25 custody, if they're designated as a male, they go to our</p>	<p style="text-align: right;">Page 91</p> <p>1 postoperative person come into TDCJ custody yet?</p> <p>2 A Not that I'm aware of, no, sir.</p> <p>3 Q But if they did, they would be assigned to the</p> <p>4 unit based on their birth certificate; is that right?</p> <p>5 A What they were born with, yes, sir.</p> <p>6 Q Is there a policy about that written down</p> <p>7 anywhere?</p> <p>8 A I am not sure.</p> <p>9 Q Don't know?</p> <p>10 A I don't know off the top of my head.</p> <p>11 Q Let's talk about Topic 5, which is "Policies,</p> <p>12 procedures, protocols, memoranda, circulars, training</p> <p>13 materials, or other agency guidance relating to transgender</p> <p>14 inmates or inmates experiencing gender dysphoria."</p> <p>15 I understand that you've been designated to</p> <p>16 testify about this topic just as it relates to correctional</p> <p>17 officer training; is that right?</p> <p>18 A Yes, sir.</p> <p>19 Q What type of training does TDCJ provide with</p> <p>20 respect to correctional officers who deal with transgender</p> <p>21 inmates?</p> <p>22 A So we have a Pre-Service Academy that is almost</p> <p>23 six weeks long that every correctional officer goes to</p> <p>24 prior to being assigned to a unit. And then once a year</p> <p>25 after that, they go through an inservice, kind of a</p>
<p style="text-align: right;">Page 90</p> <p>1 male facilities.</p> <p>2 Q Well, and how do they make that determination?</p> <p>3 A How do they make that determination?</p> <p>4 Q How does TDCJ make that determination?</p> <p>5 A If I can recall, it's off the birth certificate.</p> <p>6 It identifies what they were born, what type of genitalia</p> <p>7 they were born with. That's the facility they'll be going</p> <p>8 to.</p> <p>9 Q Okay. So the TDCJ policy goes with the birth</p> <p>10 certificate?</p> <p>11 A I believe so. Whatever they were born with,</p> <p>12 that's the facility they'll be assigned to.</p> <p>13 Q What about policies for postoperative people who</p> <p>14 come into TDCJ custody? How would those folks get housed,</p> <p>15 people who have already transitioned?</p> <p>16 MR. CALB: Objection to relevance, since</p> <p>17 there's no postoperative transgender person at issue in</p> <p>18 this case.</p> <p>19 MR. FACTOR: Relevant to Topic 17 about</p> <p>20 housing classifications for inmates with gender dysphoria.</p> <p>21 THE WITNESS: We have not had anybody come</p> <p>22 into our custody with that type of surgery. They would</p> <p>23 come in as whatever they were born with to that specific</p> <p>24 facility.</p> <p>25 Q (BY MR. FACTOR) Okay. So TDCJ hasn't had a</p>	<p style="text-align: right;">Page 92</p> <p>1 refresher over certain policies. And then we have post</p> <p>2 orders within our facility for the correctional staff.</p> <p>3 Some of that training in the Pre-Service Academy is just</p> <p>4 making them aware that we do have different types of</p> <p>5 inmates within our custody but to treat them all the same,</p> <p>6 you know, basically.</p> <p>7 But, you know, there is policy that talks about</p> <p>8 transgenders that they must be showered separately and not</p> <p>9 in view of other individuals, but basically to be aware of</p> <p>10 the different type of inmates, the custody, you know, if</p> <p>11 they are G2 or P2. And then, of course, if the level is --</p> <p>12 is higher, then -- then they would be aware that those</p> <p>13 individuals have a disciplinary history and would need more</p> <p>14 security in that area to manage that type of population.</p> <p>15 Q Okay. So there's a pre-service training.</p> <p>16 Anything else?</p> <p>17 A We do have what we call on-the-job training after</p> <p>18 they arrive to a facility. Again, going over some basic</p> <p>19 procedures. When you get on to a facility, you are</p> <p>20 aware -- if it's a safekeeping housing area, each staff</p> <p>21 knows where they have housing rosters that would indicate</p> <p>22 what type of custody is in that specific cellblock or</p> <p>23 housing area. And if they would see a P2 or a P3 or P4,</p> <p>24 that officer would know that that's a safekeeping inmate in</p> <p>25 that area.</p>

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<p>1 So that's kind of the different trainings we have</p> <p>2 for them currently.</p> <p>3 Q And I've seen these operation manuals for Safe</p> <p>4 Prisons/PREA operation manuals that have rules for special</p> <p>5 population codes and how to handle classifications.</p> <p>6 Are there any types of training manuals or other</p> <p>7 documents that are created specifically relating to</p> <p>8 transgender inmates other than these PREA operation</p> <p>9 manuals?</p> <p>10 A So the PREA standards, our Safe Prisons</p> <p>11 department reviews all those PREA standards. So there</p> <p>12 might be some Safe Prison policy that specifically talks</p> <p>13 about transgender inmates and how we are supposed to manage</p> <p>14 that style of population on the facility.</p> <p>15 Transgender safekeeping, our Safe Prison plan,</p> <p>16 our Safe Prison policies talk about during intake that --</p> <p>17 that we refer them to mental health. Once they are --</p> <p>18 identify themselves as transgender, I believe there is some</p> <p>19 Safe Prison procedures that discuss specific training for</p> <p>20 the staff to follow.</p> <p>21 Q The Safe Prison procedures discuss specific</p> <p>22 training that the staff needs to follow, but there's no,</p> <p>23 like -- I don't know -- a training manual or some document</p> <p>24 that's created and given to correctional officers about --</p> <p>25 specific to training for transgender inmates?</p>	<p>1 Okay. Are you aware of any other correctional</p> <p>2 officer training, policies, procedures, protocols,</p> <p>3 memoranda, or training materials relating to transgender</p> <p>4 inmates other than the ones we've talked about?</p> <p>5 A The officer post orders might mention something</p> <p>6 about transgender safekeeping inmates on the facility, but</p> <p>7 right now, I can't think of any other policies that might</p> <p>8 discuss transgender inmates.</p> <p>9 Q Okay. Topic 14 is designated -- for which you're</p> <p>10 designated to testify on behalf of TDCJ is "All policies,</p> <p>11 procedures, protocol, memoranda, circulars, or other agency</p> <p>12 guidance relating to the provision of long-hair passes,</p> <p>13 panties, bras, and cosmetics to inmates."</p> <p>14 You're prepared to testify about that topic --</p> <p>15 A Yes.</p> <p>16 Q -- on behalf of TDCJ?</p> <p>17 A Yes, sir.</p> <p>18 Q What materials did you look at to prepare</p> <p>19 yourself to testify about this topic?</p> <p>20 A Again, just looking over our, one, grooming</p> <p>21 standards, our laundry policies. I did review -- I'm</p> <p>22 trying to think.</p> <p>23 I did refresh my memory of the special</p> <p>24 populations policies we have and training.</p> <p>25 Can you repeat the question one more time so I</p>
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<p>1 A So the -- so the Safe Prison plan or policies,</p> <p>2 that I can recall, doesn't refer to a specific training.</p> <p>3 It just tells us how to manage the different custodies</p> <p>4 within our facility. We -- we train our staff to treat</p> <p>5 them all the same, you know. No -- we have -- of course,</p> <p>6 we have male inmates on male facilities and females on</p> <p>7 female facilities, and there are some different</p> <p>8 security-related policies I guess we can -- I don't want to</p> <p>9 say "policies." That's the wrong word.</p> <p>10 There are some different securities that we --</p> <p>11 understand there's different security issues on female</p> <p>12 facilities compared to male facilities.</p> <p>13 Q Right. And I get all that. I'm just asking</p> <p>14 whether you're aware of or have ever seen, like, a specific</p> <p>15 training given to correctional officers about interacting</p> <p>16 with transgender inmates.</p> <p>17 A There's a training curriculum on special</p> <p>18 populations that just talks about, again, the type of</p> <p>19 inmates we have in our custody and that we need to be aware</p> <p>20 of who they are in the housing areas and make sure we</p> <p>21 follow the Safe Prison or PREA guidelines.</p> <p>22 Q Okay. And is that publicly available?</p> <p>23 A I don't -- I'm not sure if it's publicly</p> <p>24 available.</p> <p>25 Q Okay. I can follow up about that later.</p>	<p>1 can make sure --</p> <p>2 Q What materials did you rely on to prepare</p> <p>3 yourself to testify about this topic?</p> <p>4 A I just -- you know, classification procedures,</p> <p>5 some of the Safe Prison procedure manual.</p> <p>6 Q Okay. I'll share with you what I'll mark as</p> <p>7 Exhibit 16.</p> <p>8 (Exhibit No. 16 marked for identification.)</p> <p>9 Q (BY MR. FACTOR) And this is a Security</p> <p>10 Memorandum about inmate grooming dated June 1st, 2022. Do</p> <p>11 you see that?</p> <p>12 A Yes.</p> <p>13 Q Is this TDCJ's current policy regarding long-hair</p> <p>14 passes?</p> <p>15 A It's the policy in reference to inmate grooming,</p> <p>16 yes. This is the current policy.</p> <p>17 Q Before June 2022, TDCJ did not allow male</p> <p>18 offenders to have long hair, correct?</p> <p>19 A Without a religious accommodation, that's</p> <p>20 correct. We did allow with a religious accommodation for</p> <p>21 long hair.</p> <p>22 Q Right. So if an inmate was a male who identified</p> <p>23 as a transgender female, prior to June 2022 that inmate</p> <p>24 could not have long hair; is that right?</p> <p>25 A That's correct.</p>

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<p>1 Q Why did the policy change in June 2022?</p> <p>2 A If I remember, there was the last court case</p> <p>3 there that's listed on that document, White v. Davis, I</p> <p>4 believe. That court case, I believe, made us look at the</p> <p>5 policy again, and some revisions were made after that.</p> <p>6 Q Okay. And what were the facts or the basic</p> <p>7 nature of that case?</p> <p>8 A That I remember, it was a Native American</p> <p>9 lawsuit. I don't know the details of the case.</p> <p>10 Q So the policy changed in response to a lawsuit?</p> <p>11 A I think some of the policy changed because of</p> <p>12 the -- some of the changes was because of the lawsuit.</p> <p>13 Q So are you familiar with a lawsuit filed by Lily</p> <p>14 Hopkins?</p> <p>15 A I want to say there was a case on Hopkins that --</p> <p>16 I'm not sure if that's the case that I was part of or not.</p> <p>17 I don't remember that first name.</p> <p>18 Q Hopkins was a -- or is a transgender inmate who</p> <p>19 sued TDCJ relating to a long-hair pass. Are you familiar</p> <p>20 with that lawsuit?</p> <p>21 A I don't remember if that's the case I was part</p> <p>22 of. I'm not -- I'm not sure.</p> <p>23 Q Okay. What are TDCJ's policies relating to the</p> <p>24 provision of bras to transgender inmates?</p> <p>25 A It has -- the individual has to be seen by the</p>	<p>1 Q Bras are also necessities under this policy,</p> <p>2 right?</p> <p>3 A Can you ask that question one more time.</p> <p>4 Q Bras are also necessities under this policy,</p> <p>5 right?</p> <p>6 A Yes.</p> <p>7 Q Who at the medical department within TDCJ makes a</p> <p>8 determination for whether a transgender inmate is allowed</p> <p>9 to receive a bra?</p> <p>10 A I would believe it would be the medical provider</p> <p>11 on the unit. It could be the director of nurses or I would</p> <p>12 assume the doctor on the facility. I'm not sure exactly,</p> <p>13 but that will be referred to the medical staff on the</p> <p>14 facility.</p> <p>15 Q Okay. So they don't have to go to -- outside of</p> <p>16 the facility to, like, Hospital Galveston to get a bra</p> <p>17 right?</p> <p>18 A Not that I'm aware of.</p> <p>19 Q And then this policy also has some specifics for</p> <p>20 measuring transgender male offenders, right?</p> <p>21 A Yes.</p> <p>22 Q Are you aware of any other policies about</p> <p>23 necessities or providing undergarments to inmates?</p> <p>24 A Not that I can recall.</p> <p>25 Q This is the only policy you're aware of, right?</p>
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<p>1 medical department. If the medical department approves for</p> <p>2 a male inmate to have a bra, then we would provide it from</p> <p>3 the laundry department.</p> <p>4 Q And I'm sharing what I'll mark as Exhibit 17.</p> <p>5 (Exhibit No. 17 marked for identification.)</p> <p>6 Q (BY MR. FACTOR) This is a policy titled</p> <p>7 Allocation of Necessities also dated June 2021.</p> <p>8 Is this TDCJ's current policy on providing bras</p> <p>9 to inmates?</p> <p>10 A I believe so.</p> <p>11 Q And the first sentence of this paragraph states,</p> <p>12 "Necessities shall be defined as pants, shirts, gowns,</p> <p>13 coveralls" -- and, relevant here, "undergarments".</p> <p>14 Do you see that?</p> <p>15 A Yes.</p> <p>16 Q So undergarments are necessities under this</p> <p>17 policy, right?</p> <p>18 A Yes.</p> <p>19 Q And if you look at Page TDCJ 21, there's a policy</p> <p>20 about allocation of bras, and the first bullet says,</p> <p>21 "Transgender male offenders must contact the unit medical</p> <p>22 department and request a medical assessment for</p> <p>23 consideration of being issued a bra."</p> <p>24 That's the policy about bras, right?</p> <p>25 A Yes, sir.</p>	<p>1 A I believe so.</p> <p>2 Q And are there any other policies at TDCJ relating</p> <p>3 to the allocation of necessities?</p> <p>4 A No, sir.</p> <p>5 Q What are TDCJ's policies relating to the</p> <p>6 provision of panties to inmates?</p> <p>7 A If you're on a female facility, that you would</p> <p>8 receive panties for that population.</p> <p>9 Q But on a male facility, panties are not provided,</p> <p>10 correct?</p> <p>11 A Correct.</p> <p>12 Q Is there a policy about that anywhere?</p> <p>13 A Not -- not that I can recall.</p> <p>14 Q If it would -- if there was a policy, it would</p> <p>15 probably be in this policy about allocation of necessities,</p> <p>16 right?</p> <p>17 A Yes.</p> <p>18 Q And this policy does not mention panties,</p> <p>19 correct?</p> <p>20 A Can you go back to the top of the...</p> <p>21 Q Sure.</p> <p>22 A It mentions undergarments. That's it.</p> <p>23 Q Right. But you have the separate section that</p> <p>24 addresses allocation of bras to male inmates. There's not</p> <p>25 anything that says anything about allocation of panties to</p>

<p style="text-align: right;">Page 101</p> <p>1 male inmates, right?</p> <p>2 A Not that I see.</p> <p>3 Q So does this policy allow male inmates to receive</p> <p>4 panties?</p> <p>5 A No.</p> <p>6 Q It doesn't prohibit it, though, right?</p> <p>7 A It does not that I can see.</p> <p>8 Q Okay. So for this policy where the policy is</p> <p>9 silent, it doesn't say anything about panties -- panties</p> <p>10 are not allowed, right?</p> <p>11 A Panties are not allowed on a male facility for</p> <p>12 male inmates.</p> <p>13 Q Why not?</p> <p>14 A Panties are -- in -- in -- for many reasons. I</p> <p>15 mean, inmates that wear some type of female undergarment</p> <p>16 would be a -- a security challenge for the staff, you know,</p> <p>17 because -- some of those male inmates who want to wear</p> <p>18 female undergarments, in some cases, tend to show off that</p> <p>19 undergarment and -- which causes issues from inmates within</p> <p>20 that housing area.</p> <p>21 They want -- in some cases want to be more</p> <p>22 provocative, which causes attention to them, which become</p> <p>23 security issues, where maybe another inmate would want to</p> <p>24 come and assault that individual either physically or -- or</p> <p>25 sexually.</p>	<p style="text-align: right;">Page 103</p> <p>1 Q Any other concerns?</p> <p>2 Security concern for the inmate, security concern</p> <p>3 for the guards, I think I heard you say.</p> <p>4 Any other concerns supporting not providing</p> <p>5 panties to male inmates?</p> <p>6 A Well, it's not just the inmate himself. You</p> <p>7 know, there's times that a male inmate within our custody</p> <p>8 has wanted to look more feminine and there has been other</p> <p>9 inmate assaults, not necessarily on him, because other</p> <p>10 inmates feel that those individuals should belong to</p> <p>11 certain people.</p> <p>12 You know, we have had incidents where -- not</p> <p>13 allowed but where they have relationships on the inside and</p> <p>14 those relationships become issues when you have jealousy</p> <p>15 involved and then you have certain individuals on male</p> <p>16 facilities that want to dress more like a female -- that</p> <p>17 becomes issues because of jealousy and assaults and --</p> <p>18 and -- either assaults between other inmates or assault on</p> <p>19 that specific inmate.</p> <p>20 Q So I just want to make sure I'm really clear</p> <p>21 about this. The reason you don't provide panties to</p> <p>22 transgender inmates is because panties will cause assaults</p> <p>23 to inmates; is that right?</p> <p>24 A That's one of the reasons. Also that, you know,</p> <p>25 what we provide them now is enough for them to -- to wear</p>
<p style="text-align: right;">Page 102</p> <p>1 So it becomes a security concern when you have</p> <p>2 men wearing female undergarments. Not only it causes an</p> <p>3 issue with -- within the inmate population, just managing</p> <p>4 them, you know, we have officers assigned to those housing</p> <p>5 areas. And to try to control any type of advances,</p> <p>6 sexually or physically, is a challenge for the staff in</p> <p>7 some cases.</p> <p>8 Q So males wearing female undergarments pose</p> <p>9 security issues for the staff. Is that what I'm hearing</p> <p>10 you say?</p> <p>11 A It could because, you know, there's times that we</p> <p>12 allow the -- the inmate population to wear shorts in the</p> <p>13 dayroom, so it's not -- it's not pants. And in a lot of</p> <p>14 cases, these inmates that want to wear some type of</p> <p>15 undergarments that is not provided to them because they --</p> <p>16 have been instances where male inmates have changed the</p> <p>17 style of the garments they have now to -- that's more</p> <p>18 provocative, and which has caused issues where there --</p> <p>19 there has been threats to them or -- not only threats from</p> <p>20 inmate to them or they felt that their life was in danger</p> <p>21 because of being advanced on.</p> <p>22 Q So the reason for the policy of not providing</p> <p>23 male inmates with panties is a security threat to the</p> <p>24 inmates; is that right?</p> <p>25 A It is a security concern.</p>	<p style="text-align: right;">Page 104</p> <p>1 as an undergarment. They're provided boxers. And right</p> <p>2 now, that is sufficient.</p> <p>3 Q Has TDCJ done any analysis of the threats that</p> <p>4 would be caused by providing transgender inmates with</p> <p>5 panties?</p> <p>6 A Not that I'm aware of.</p> <p>7 Q And is there anything in writing documenting this</p> <p>8 policy of not providing transgender inmates panties?</p> <p>9 A We have not provided them panties, so there would</p> <p>10 not be any documentation indicating that there would be</p> <p>11 additional assaults.</p> <p>12 Q Okay. And this policy, Allocation of</p> <p>13 Necessities, is silent about panties, right?</p> <p>14 A In this policy, yes.</p> <p>15 Q And TDCJ enforces it so as to never provide</p> <p>16 panties to male inmates in any instance, right?</p> <p>17 A We do not provide panties to male inmates.</p> <p>18 Q And Policy G-51.11 is silent about sex</p> <p>19 reassignment surgery; is that right?</p> <p>20 A The policy refers back to the medical staff to</p> <p>21 make decisions if such treatment is needed.</p> <p>22 Q But it's silent on sex reassignment surgery,</p> <p>23 right?</p> <p>24 A It just refers them back to the medical staff on</p> <p>25 the facilities to make those decisions.</p>

<p style="text-align: right;">Page 105</p> <p>1 Q Yes or no, it's silent on sex reassignment 2 surgery?</p> <p>3 A It does not say that it's prohibited. It does -- 4 pushes back to the medical providers on a facility. If 5 they felt that that treatment is necessary, they can review 6 it on their -- on their behalf within that UTMB.</p> <p>7 Again, UTMB is not part of TDCJ. We have a 8 Health Services division, but UTMB is a -- is a university 9 that we use as -- for our medical care.</p> <p>10 MR. FACTOR: Object to nonresponsive, 11 everything after the policy does not mention it.</p> <p>12 Q (BY MR. FACTOR) Has TDCJ ever considered 13 allowing transgender inmates to be allocated panties if a 14 doctor determined it was medically necessary to treat the 15 inmate's gender dysphoria?</p> <p>16 A Not that I'm aware of.</p> <p>17 Q Never considered the issue, right?</p> <p>18 A I'm not aware of a discussion about providing 19 panties to male inmates.</p> <p>20 Q Does TDCJ have a blanket policy of never 21 providing panties to transgender male inmates?</p> <p>22 A I wouldn't say we have a blanket policy. We just 23 do not allow panties. They are provided boxers.</p> <p>24 Q Panties are prohibited in all instances, correct?</p> <p>25 A Panties are prohibited to the male population.</p>	<p style="text-align: right;">Page 107</p> <p>1 Q Okay. I'm going to share what I'll mark as -- 2 well, are you aware of anyone ever -- what would happen if 3 an UTMB doctor prescribed a transgender inmate panties as a 4 treatment for gender dysphoria?</p> <p>5 A I would --</p> <p>6 MR. CALB: Objection. That's a medical 7 question.</p> <p>8 Q (BY MR. FACTOR) What would TDCJ do in the event 9 that an inmate was prescribed panties from their healthcare 10 provider?</p> <p>11 A Can you say that one more time.</p> <p>12 Q What would TDCJ do in the event that an inmate 13 was prescribed panties as a treatment for gender dysphoria 14 from medical?</p> <p>15 A If it was something that was ordered by a medical 16 provider, us on the security side would enforce those 17 medical -- comply with those orders.</p> <p>18 Q And do you know of any policies on the medical 19 side of things that prohibit prescriptions for panties for 20 transgender inmates?</p> <p>21 A Not that I'm aware of.</p> <p>22 Q Are you aware of medical having a policy of never 23 allowing panties or other garments -- other undergarments 24 to be deemed medically necessary?</p> <p>25 A Not that I'm aware of.</p>
<p style="text-align: right;">Page 106</p> <p>1 Q Panties are prohibited to all transgender men, 2 correct?</p> <p>3 A Panties are prohibited to the male population.</p> <p>4 Q So there is a prohibition on panties in male 5 prisons in TDCJ, correct?</p> <p>6 A We just do not allow panties on a male facility.</p> <p>7 Q And not allowing something is a prohibition, 8 correct?</p> <p>9 A I wouldn't say that is -- our policies and -- at 10 this time is that we do not provide panties to the male 11 population.</p> <p>12 Q Right. They're prohibited, correct?</p> <p>13 A They're (inaudible).</p> <p>14 THE REPORTER: I'm sorry. What was that 15 answer? I didn't get the answer.</p> <p>16 THE WITNESS: I said, "They're not allowed."</p> <p>17 Q (BY MR. FACTOR) And I'm just trying to get a 18 "yes" or "no" answer. Are they prohibited?</p> <p>19 I don't see much difference between "not allowed" 20 and "prohibited," but what -- what's the difference for why 21 you won't say they're prohibited?</p> <p>22 A There's not a difference, and they're prohibited 23 then.</p> <p>24 Q So you agree that panties are prohibited?</p> <p>25 A I agree they're not allowed.</p>	<p style="text-align: right;">Page 108</p> <p>1 Q Are you aware of TDCJ medical having a policy of 2 not making any recommendations or orders for panties or 3 other female undergarments for any TDCJ offenders?</p> <p>4 A No, sir.</p> <p>5 Q Are you aware of any practices where TDCJ medical 6 would not make any recommendations for panties?</p> <p>7 A Not that I'm aware of.</p> <p>8 Q I'll introduce what I'll mark as Exhibit 18. (Exhibit No. 18 marked for identification.)</p> <p>9 Q (BY MR. FACTOR) In the bottom e-mail is a 10 June 5th e-mail from Joseph Penn, who is the Director of 11 the Gender Identity Clinic to Walter Meyer and Jesse 12 Gordon. Subject line: "Brief summary of our meeting 13 today."</p> <p>14 Do you see that?</p> <p>15 A Yes.</p> <p>16 Q Who is Dr. Penn?</p> <p>17 A Don't know his official title, but he's our 18 mental health for -- for TDCJ.</p> <p>19 Q For your purposes, is Dr. Penn who TDCJ refers to 20 for medical decisions?</p> <p>21 A I believe so.</p> <p>22 Q Dr. Penn summarizes a meeting that he had with 23 Kelly Coates and Dr. Meyer and Jesse Gordon.</p> <p>24 Do you see that, where Dr. Penn says, "Thank you 25</p>

<p style="text-align: right;">Page 109</p> <p>1 for meeting with Kelly Coates and me today"?</p> <p>2 A Yes.</p> <p>3 Q And the first bullet point of his summary e-mail</p> <p>4 says, "Bras and undergarments." Do you see that?</p> <p>5 A Yes.</p> <p>6 Q And he says, "Under current TDCJ</p> <p>7 policies/practices, no panties or other undergarments are</p> <p>8 deemed as being medically necessary."</p> <p>9 Do you see that?</p> <p>10 A Yes.</p> <p>11 Q So which policies and practices say that no</p> <p>12 panties or other undergarments are allowed to be deemed as</p> <p>13 medically necessary?</p> <p>14 A I'm not sure if there's a Correctional Managed</p> <p>15 Health Care policy that indicates that.</p> <p>16 Q Well, Dr. Penn, who manages the gender identity</p> <p>17 clinic, is saying under the current policies, no panties or</p> <p>18 other undergarments are deemed as being medically</p> <p>19 necessary, right?</p> <p>20 A Yes.</p> <p>21 Q So fair assumption that as of the date of this</p> <p>22 e-mail, TDCJ's policies and practices were that no panties</p> <p>23 or other undergarments are deemed as being medically</p> <p>24 necessary, right?</p> <p>25 A That's what he wrote, yes, sir.</p>	<p style="text-align: right;">Page 111</p> <p>1 hair removal/extension products, or makeup or similar</p> <p>2 items."</p> <p>3 Do you see that?</p> <p>4 A Yes.</p> <p>5 Q Based on this statement, at that time, was it the</p> <p>6 policy of TDCJ medical to avoid any language in their</p> <p>7 evaluations or notes regarding anxiety or distress relating</p> <p>8 to an inability to have undergarments, right?</p> <p>9 A That's what Dr. Penn wrote.</p> <p>10 Q And Dr. Penn was the person responsible for</p> <p>11 implementing the policy, right?</p> <p>12 A That I'm aware of, yes.</p> <p>13 Q And then you said Dr. Linthicum at Health</p> <p>14 Services provides oversight of Dr. Penn, right?</p> <p>15 A She -- she reviews our -- our -- our practices</p> <p>16 and our contracts on the facilities.</p> <p>17 Q Well, Dr. Penn tells Dr. Linthicum, "Kelly Coates</p> <p>18 and I met with Dr. Meyer and Dr. Gordon." In parentheses,</p> <p>19 "She is taking over Dr. Meyer's gender dysphoria</p> <p>20 patients/clinics at HG today."</p> <p>21 Do you see that? That's Dr. Penn sending a</p> <p>22 summary e-mail to Dr. Linthicum?</p> <p>23 A Yes.</p> <p>24 Q And he says, "I reviewed with both of them the</p> <p>25 importance of not making any recommendations or orders for</p>
<p style="text-align: right;">Page 110</p> <p>1 Q And he also says, "Under current TDCJ</p> <p>2 policies/practices, no panties or other undergarments are</p> <p>3 being deemed as medically necessary or to be recommended or</p> <p>4 ordered."</p> <p>5 That second part, "or to be recommended or</p> <p>6 ordered," is it your understanding that the then-current</p> <p>7 TDCJ policies and practices did not allow panties or</p> <p>8 undergarments to be recommended or ordered?</p> <p>9 A Reading his statement on the e-mail, that's what</p> <p>10 he mentioned as our current practices do not order panties</p> <p>11 or undergarments.</p> <p>12 Q And as the person who's in charge of the gender</p> <p>13 identity clinic, he was the one responsible for</p> <p>14 implementing those policies, right?</p> <p>15 A I believe he had a big part in that, but there's</p> <p>16 also our health service division that monitors those --</p> <p>17 those policies and practices.</p> <p>18 Q And Health Services Division, that's</p> <p>19 Dr. Linthicum, right?</p> <p>20 A Yes, sir.</p> <p>21 Q Next sentence in his e-mail says, "We should</p> <p>22 avoid any language in our evaluation/notes regarding</p> <p>23 anxiety or distress relating to an inability to have</p> <p>24 undergarments or suggest that relief of emotional distress</p> <p>25 or symptoms could be addressed by providing undergarments,</p>	<p style="text-align: right;">Page 112</p> <p>1 panties or other undergarments for any TDCJ offenders."</p> <p>2 Do you see that?</p> <p>3 A Yes.</p> <p>4 Q And is it your understanding that that was TDCJ's</p> <p>5 policy at the time, the policy being not making any</p> <p>6 recommendations or orders for panties or other</p> <p>7 undergarments for TDCJ offenders?</p> <p>8 A Yes.</p> <p>9 Q Are you aware of the policy on panties or</p> <p>10 undergarments changing at any time from 2018 through</p> <p>11 present?</p> <p>12 A I do not.</p> <p>13 Q And you're not aware of any inmate ever -- any</p> <p>14 male inmate ever being assigned or prescribed panties on</p> <p>15 male units?</p> <p>16 A They have not been.</p> <p>17 Q Never, right?</p> <p>18 A No.</p> <p>19 Q And that could be because TDCJ medical has a</p> <p>20 policy of not making any recommendations or orders for</p> <p>21 them, right?</p> <p>22 A It's a possibility why.</p> <p>23 Q That's what this e-mail says, doesn't it?</p> <p>24 A Uh-huh, yes.</p> <p>25 Q Any other bases other than the security threat</p>

<p>Page 113</p> <p>1 that could be caused by providing panties to transgender</p> <p>2 inmates supporting TDCJ's policy of not providing panties</p> <p>3 to transgender inmates?</p> <p>4 A Again, the only thing would be just the security</p> <p>5 concern we have for the individual and how they would act</p> <p>6 while in a housing area wearing -- and being sexually</p> <p>7 provocative towards the rest of the population and just the</p> <p>8 security concern that we have.</p> <p>9 Q Any other reasons?</p> <p>10 A No, sir.</p> <p>11 MR. FACTOR: Would you mind if we took,</p> <p>12 like, a quick two-minute break?</p> <p>13 MR. CALB: No worries. Sure.</p> <p>14 THE REPORTER: Off the record.</p> <p>15 (A break was taken from 5:47 p.m. to 5:50 p.m.)</p> <p>16 THE REPORTER: Back on the record.</p> <p>17 Q (BY MR. FACTOR) Mr. Guerrero, you understand</p> <p>18 you're still under oath?</p> <p>19 A Yes, sir.</p> <p>20 Q Earlier today you mentioned you had a call with</p> <p>21 warden -- a warden at the Stiles Unit about Haverkamp's</p> <p>22 transfer. What did you and that warden discuss?</p> <p>23 A I think what I can remember was I didn't know he</p> <p>24 was one of the individuals who was being transferred to the</p> <p>25 Connally Unit. If I can recall, I told him he should have</p>	<p>Page 115</p> <p>1 testimony on breaks in Texas, so I'm entitled to ask.</p> <p>2 MR. CALB: Substance of testimony.</p> <p>3 THE WITNESS: Okay. And I -- I guess I'm</p> <p>4 maybe confused on substance. We just talked about continue</p> <p>5 to answer the questions. I don't -- maybe confused on</p> <p>6 substance.</p> <p>7 Q (BY MR. FACTOR) Well, what did you discuss about</p> <p>8 your testimony?</p> <p>9 A Talked about the -- I guess the questions on --</p> <p>10 the medical questions about me being the -- discussing the</p> <p>11 answers, you know, about me not being my expertise in -- in</p> <p>12 medical department.</p> <p>13 Q They told you you didn't have medical expertise</p> <p>14 in the medical department?</p> <p>15 A I don't know if they told me. I knew that from</p> <p>16 the get-go. I mean, I'm not an expert in medical.</p> <p>17 Q And did they tell you to not answer questions</p> <p>18 where you didn't have medical expertise?</p> <p>19 A No, sir.</p> <p>20 Q What else did you discuss about the substance of</p> <p>21 your testimony?</p> <p>22 A I think that just -- answer the best that I can.</p> <p>23 I mean, there's -- there's some things that I was not --</p> <p>24 did not know and that's why they continue to say, "Do the</p> <p>25 best you can."</p>
<p>Page 114</p> <p>1 let us know that he was on the transfer list so we would</p> <p>2 have kept him there to attend his deposition.</p> <p>3 Q And was that call successful?</p> <p>4 A Well, that was after he was transferred.</p> <p>5 Q After the fact? Okay. Got it.</p> <p>6 Did you bring any notes today to your deposition</p> <p>7 or any other documents do you have -- that you have with</p> <p>8 you?</p> <p>9 A No, sir.</p> <p>10 Q And where are you today?</p> <p>11 A My office.</p> <p>12 Q Is that in Huntsville?</p> <p>13 A Yes.</p> <p>14 Q Is anyone there with you?</p> <p>15 A No, sir.</p> <p>16 Q And we've taken several breaks today. Have you</p> <p>17 discussed the substance of your testimony with anybody on</p> <p>18 those breaks?</p> <p>19 A Just on the breakout sessions with Ms. Childress</p> <p>20 and Mr. Calb.</p> <p>21 Q What did you discuss with them about the</p> <p>22 substance of your testimony?</p> <p>23 MR. CALB: Objection. Privileged</p> <p>24 information that we're discussing the case.</p> <p>25 MR. FACTOR: You can't discuss substance of</p>	<p>Page 116</p> <p>1 Most of the time, it was straight to the bathroom</p> <p>2 and come back. A little discussion on the break, that was</p> <p>3 it. Told me I was doing a good job. I mean, do my best --</p> <p>4 best I can.</p> <p>5 Q Are there any answers now that we're at the end</p> <p>6 of the day that you'd like to change?</p> <p>7 A Answers?</p> <p>8 Q Any of your testimony that you'd like to change?</p> <p>9 A No, sir.</p> <p>10 Q Okay.</p> <p>11 MR. FACTOR: I'll pass the witness.</p> <p>12 MR. CALB: I have no questions.</p> <p>13 MR. STRAWN: We'll reserve our questions.</p> <p>14 MR. FACTOR: Thank you, Mr. Guerrero. I</p> <p>15 think you're done.</p> <p>16 THE WITNESS: Thank you.</p> <p>17 THE REPORTER: Mr. Strawn, did you want a</p> <p>18 copy of the transcript?</p> <p>19 MR. STRAWN: Yes, I guess -- actually, you</p> <p>20 know what, let me double-check and I'll e-mail you. Okay?</p> <p>21 THE REPORTER: Okay.</p> <p>22 Is this a read and sign or waive signature,</p> <p>23 Mr. Calb?</p> <p>24 MR. CALB: I will waive the reading, but I</p> <p>25 would like to order a copy of the transcript.</p>

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1 THE REPORTER: Okay. Do you want an  
2 e-trans?  
3 MR. CALB: Yes.  
4 THE REPORTER: And then Mr. Factor I think  
5 we have your order?  
6 MR. FACTOR: I don't need a rush for this  
7 one.  
8 THE REPORTER: All right.  
9 MR. CALB: Oh, I apologize. We would like  
10 to review and sign before --  
11 THE REPORTER: Okay. Read and sign. Okay.  
12 And an e-trans.  
13 Okay.  
14 MR. STRAWN: Chrystal, go ahead and send me  
15 a copy. I'll go ahead and get a copy of it, please.  
16 THE REPORTER: Okay. E-trans?  
17 MR. STRAWN: Yes, please.  
18 THE REPORTER: Thank you.  
19 (Deposition concluded at 5:55 p.m.)  
20  
21  
22  
23  
24  
25

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1 CHANGES AND CORRECTIONS  
2 WITNESS NAME: ERIC GUERRERO - VOLUME 1  
3 DATE: JULY 20, 2023  
4 Reason Codes: (1) to clarify the record; (2) to conform to  
the facts; (3) to correct a transcription error; (4) other  
5 (please explain).  
6 PAGE/LINE CHANGE REASON CODE  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
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25 \_\_\_\_\_

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1 SIGNATURE  
2  
3 I, ERIC GUERRERO, have read the foregoing  
4 deposition and hereby affix my signature that the same is  
5 true and correct, except as noted on the previous page.  
6  
7 \_\_\_\_\_  
8 ERIC GUERRERO  
9 THE STATE OF \_\_\_\_\_  
10 COUNTY OF \_\_\_\_\_  
11 Before me, \_\_\_\_\_, on this day personally  
12 appeared ERIC GUERRERO, known to me (or proved to me under  
13 oath or through \_\_\_\_\_) (description of identity  
14 card or other document) to be the person whose name is  
15 subscribed to the foregoing instrument and acknowledged to  
16 me that he executed the same for the purposes and  
17 consideration therein expressed.  
18 Given under my hand and seal of office this \_\_\_\_ day  
19 of \_\_\_\_\_, 20\_\_\_\_.  
20  
21 \_\_\_\_\_  
22 NOTARY PUBLIC IN AND FOR  
23 THE STATE OF \_\_\_\_\_  
24 COMMISSION EXPIRES: \_\_\_\_\_  
25

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1 REPORTER'S CERTIFICATE  
2 STATE OF TEXAS )  
3 COUNTY OF TRAVIS )  
4 I, CHRYSTAL H. McDANIEL, Certified Shorthand Reporter,  
5 in and for the State of Texas, certify that the foregoing  
6 deposition of ERIC GUERRERO was reported stenographically  
7 by me at the time and place indicated, said witness having  
8 been placed under oath by me; that review was requested  
9 pursuant to Federal Rule of Civil Procedure 30(e)(1); and  
10 that the deposition is a true record of the testimony given  
11 by the witness.  
12 I further certify that I am neither counsel for nor  
13 related to any party in this cause and am not financially  
14 interested in its outcome.  
15 Given under my hand on this the 1st day of August,  
16 2023.  
17  
18 \_\_\_\_\_  
19 CHRYSTAL H. McDANIEL, Texas CSR 11847  
20 CSR Expiration: 12/31/2024  
21 Time used by each party:  
22 Ace Factor - 3 hours; 15 minutes  
23 Michael Calb - 0 hours; 0 minutes  
24 Jennifer Childress - 0 hours; 0 minutes  
25 John Strawn - 0 hours; 0 minutes

<div>-</div> <div>-cj's 66:11</div> <div>0</div> <div>001 48:12</div> <div>003 41:22</div> <div>004 41:22</div> <div>006 45:13</div> <div>1</div> <div>1 37:17,24 38:4,14 39:19 41:23 43:4, 11 45:4 48:9 49:12 51:4 55:5 69:4,5 73:14 85:25</div> <div>1,000 86:22</div> <div>10/17/2014 49:13</div> <div>100 77:2</div> <div>11 24:9,10 75:4</div> <div>11th 48:10 67:23 68:1</div> <div>12 58:21,22</div> <div>12/15/15 44:25</div> <div>129,000 32:14</div> <div>12th 41:24 42:1 43:1,21</div> <div>13 63:22,23 69:18 74:17</div> <div>14 24:4 25:1 84:6,7 95:9</div> <div>15 85:9,10</div> <div>15th 42:8</div> <div>16 24:4 25:7 75:22 96:7,8</div> <div>17 24:4 25:11,14 82:19 90:19 98:4,5</div> <div>18 25:16,22 65:12,17,25 108:8,9</div> <div>1983 70:17 71:9</div> <div>1997 73:2</div> <div>1997e(a) 72:25</div> <div>1st 96:10</div> <div>2</div> <div>2 17:17 24:4,16 37:5 38:16,18 39:3,7, 11,25 40:6 48:10,14,21 51:4 52:2,14 55:5,8,10,22 59:7 73:14 83:10,11,17 86:1,10</div>	<div>200 76:16</div> <div>2014 42:1</div> <div>2015 40:10 41:24 42:8 43:1,12,22 44:22 48:6,10,17</div> <div>2018 112:10</div> <div>2019 27:10 76:3 85:13 86:25</div> <div>2021 98:7</div> <div>2022 67:17,23 68:1 96:10,17,23 97:1</div> <div>2023 76:7,12 77:8,17</div> <div>20th 76:12 77:8</div> <div>21 98:19</div> <div>21st 76:7</div> <div>24 66:3,6,8,22</div> <div>26 67:4</div> <div>27 67:13</div> <div>29 27:14</div> <div>29th 43:12,22 44:22</div> <div>2:03 7:1</div> <div>3</div> <div>3 17:18 24:4,18 41:15,16 57:14 58:1 64:13 66:17 69:7 83:11 86:1</div> <div>30(b)(6) 11:24 13:10 24:12 68:20</div> <div>3:31 57:20</div> <div>3:52 57:20</div> <div>4</div> <div>4 17:18 83:11</div> <div>408 7:17</div> <div>42 70:17 71:9 72:25 73:2</div> <div>44 59:18</div> <div>46 68:9,10,16</div> <div>4:27 75:17</div> <div>4:39 75:17</div> <div>5</div> <div>5 17:18 24:4,21,22 75:7,8 83:11,12, 17,18 91:11</div> <div>51 60:14</div>	<div>56 69:19,25 70:12</div> <div>5:47 113:15</div> <div>5:50 113:15</div> <div>5:55 117:19</div> <div>5th 48:17 77:17 108:11</div> <div>6</div> <div>6 86:22</div> <div>60 70:15</div> <div>61 71:4</div> <div>66 71:20</div> <div>68 72:9</div> <div>69 72:17</div> <div>7</div> <div>75 7:17 72:23</div> <div>9</div> <div>90s 10:10</div> <div>926 85:14</div> <div>A</div> <div>ability 35:24 53:24 87:23 88:12</div> <div>academy 26:15 91:22 92:3</div> <div>accommodation 25:11 38:9 82:20 96:19,20</div> <div>accurate 13:24 26:7 43:8</div> <div>accurately 85:12</div> <div>Ace 7:18 68:19</div> <div>act 113:5</div> <div>acting 15:15</div> <div>action 42:23</div> <div>actions 71:20 72:10</div> <div>activity 45:14 53:1,5</div> <div>actual 16:11 30:15 39:13</div> <div>additional 34:6 53:11,13 73:9 104:11</div> <div>address 7:14,15</div> <div>addressed 110:25</div>
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